

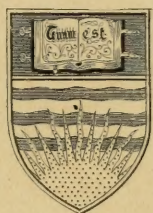
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NEW AFRICA

AN ESSAY

ON

GOVERNMENT CIVILIZATION IN NEW COUNTRIES

AND ON

the Foundation, Organization and Administration

OF

THE CONGO FREE STATE

BY

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INTRODUCTION

In writing this book, our object is to survey one of the most interesting forms of political organization, i. e. Government civilization in new countries, and to explain how H. M. King Leopold II., solved this problem in the centre of barbarous Africa.

History with its events, International Law with its construction of treaties, colonial policy with its studies on the formation and condition of communities in new colonies, have all contributed to make up this book. We shall give expression to each of those elements in their turn.

We shall also endeavour to explain, documents in hand, the origin of the present movement towards civilization in Africa, the rise of the Congo State into the comity of nations, as well as the different facts which characterise and form the basis of its existence.

With the aid of International Law, we shall try

to explain the contents and meaning of the Treaties of Berlin and Brussels, which are important landmarks in the civilization of Central Africa.

And with the help of comparative colonial politics, we shall examine how, amongst savages of Equatorial Africa, the Founder of the Congo Free State built up a new instrument of civilization.

When the dust of time shall have fallen over the present conflicts, and when impartial justice shall have determined the real greatness of men and events, few incidents will stand out so conspicuously, during the last quarter of the nineteenth century, as the opening of Central Africa to civilization. Without anticipating the judgment of future generations, we simply submit documents and testimony in proof of the above statement.

It has been said that contemporary history is the least known; perhaps it is also the most easily forgotten or misconstrued. The great work of exploring and civilizing Central Africa, which began twenty five years ago and is still continued, should not be exposed to such oblivion or misconstruction. Although it may confidently await the verdict of the future, yet it is of considerable importance that it should be appreciated at the present day.

Without expecting to calm all the passions and to conciliate all the interests which arise out of this, as out of every other human enterprise, we hope that a little more light thrown on its fundamental aspects may contribute

to dissipate prejudice, to mitigate opposition, and to bring facts into proper focus : which is, after all, the first aim of justice.

In our opinion, it is possible to arrive at such a result, without offending anybody. We are peaceful by temperament and by conviction. Generally we find it beneficial to deal with questions pacifically, avoiding irritating controversies. In most conflicts, there are found misunderstandings and apparent contradictions. At the first step of the ladder, stands stubborn opposition; at the second, agreement and conciliation. Unfortunately certain minds stop at the first rung of the ladder.

According to the statement recently made by the Prime Minister of Great-Britain, international weakness springs out of international animosity.

Having followed, from its origin, the African movement, we have studied the Congo State at all its stages of development. And we set down in this volume the result of our observations on this enterprise, which is the opening up of a New Africa.

And thus we complete the diptych which we have so long desired to paint. One side of it is dedicated to neutral and independent Belgium, and the other, to neutral and independent Congo.

April 9, 1903.

PART THE FIRST

HISTORY

CHAPTER I.

Genesis of the African civilization movement.

Contemporaries are seldom qualified to judge of the importance of events which occur under their own eyes. The « aerial perspective, » as M. de Staal put it at The Hague Conference, is in their case wanting. But some developments are so clearly and distinctly outlined that the panorama becomes easily intelligible to the ordinary observer. Such is the case in regard to the great historical event which we are now about to study.

1. — GENERAL VIEW OF THE AFRICAN CIVILIZATION MOVEMENT.

The African civilization movement has brought a new Continent, with its unknown races and its unexplored wealth, within the sphere of universal civilization. It heralded the pacific partition of the world which is now being accomplished. It was, in some sense—save for England, long since awake and labouring to this end—the inauguration of that *politique mondiale* which no longer

knows lost lands and disinherited races, which connects new countries, old nations and all forms of civilization by the most varied bonds of public law, unifies the general conditions of human existence, and makes the Ocean the common highway of the world. And perhaps it would not be difficult to recognise in what is known as « the siege of China » a sort of continuation—under conditions, certainly quite different and often misunderstood—of what has been called « the storming of the Black Countries. » At any rate, it is certain that the combination of public and private efforts put forth in the settlement of Africa has eclipsed the previous conquests of new worlds and has offered, in many respects, a spectacle unique in history.

The aspect of contemporary States, with their stately procession of colonies, protectorates and spheres of influence, has become as complex as it is imposing.

The essential characteristic of the African movement at the close of the nineteenth century was the keen and continued competition among the chief factors of European civilization in their effort to conquer the Dark Continent economically, morally, politically and by peaceful methods, not only on its borders but even to its very heart.

Undoubtedly, the Egyptian expedition of 1798, when Bonaparte first won his fame, the final occupation of the Cape by England in 1815, the conquest of Algeria begun in 1830, and, nearer our own times, the construction of the Suez Canal, started in 1859 and completed ten years later, —all mark brilliant eras in the history of this land of Africa whose destinies have been so strange, and where it seems that human genius, after exhausting

the cycle of its migrations over the world, has returned to take up again, definitely and actively this time, the long neglected work of the most ancient civilizations.

But the mighty centres of effort of which we have spoken have after all had but a limited influence : and this is even more true of the minor coast establishments which have fringed, with greater or less attempts at civilisation, the enormous Black Continent spread over a quarter of the surface of the globe. In spite of these remarkable conquests, the Foreign Office was ever so far from being able to find a means of connecting Cairo with the Cape through the interior of Africa ; the Quai d'Orsay authorities were equally unable to work out plans for an overland route from the Mediterranean to the Congo. The heart of Africa was considered incapable of becoming a seat of government ; one would as soon have thought of attempting to carry on political work at the poles. Impassable deserts and impenetrable forests, inaccessible mountains, boiling cataracts, a climate of fire, Stygian swamps,—such were the obstacles to be surmounted before the unknown land could be explored. It was always admitted that the interior must contain inexhaustible reserves of human force. But could those herds of blacks, which greedy and sanguinary hands drove towards the coast, ever serve any other purpose than to recruit the Oriental slave-markets, or to replace their fellows across the Atlantic? And if humanity revolted at the infamous slave-trade, if governments were anxious to purge the Ocean of slave-dhows, did it not seem as if this man-trading and man-hunting could never be suppressed in the home of its birth?

Intrepid explorers had undoubtedly made voyages of

discovery into the heart of the Dark Continent. The foundation of the Geographical Society of London in 1788 was the signal for a host of expeditions which in imagination could be connected with equally memorable enterprises in bygone days. But the furrows cut by these pioneers of isolated exploration seemed to fill up as soon as they were made, like footprints in quicksand. Although science gained something through the heroic efforts of these brave explorers, the heart of Africa remained a mystery. And if the veil was drawn aside from time to time, it was but to expose horrors such as those which made Livingstone cry out : « In the case of most disagreeable recollections I can succeed, in time, in consigning them to oblivion, but the slave scenes come back unbidden, and make me start up at dead of night horrified by their vividness (1). » Cannibalism, human sacrifices, man-hunting and slave-trading, with their accompanying nameless cruelties and endless suffering, were the features of the ferocious tribal anarchy which alternated with the incursions of men of prey, in search of plunder and captives for far-off slave-markets —men resolved to conquer by fire and sword, at the cost of no matter what devastation and carnage.

The tales told by travellers verily aroused, from time to time, amongst civilized nations a certain amount of curiosity not without a tinge of those sentiments of pity which are bound up with the very fibres of human nature and are hence called *par excellence* sentiments of humanity. But they did not deeply stir public opinion and Govern-

(1) *The last Journals of David Livingstone*, Paris, vol. II., p. 212.

ments gave the matter but cursory attention. These things had taken place so far away, in such an inhospitable land, —and it had ever been thus, with the fatality of a natural law! Besides, there was so much to be done at home: Governments had to be induced to make the conditions of life easier, public and even private differences had to be settled, and so on!

2. — THE GREAT INITIATIVE. — ITS CHARACTER AND EXTENT.

Let the plain truth be acknowledged: it is King Leopold II. who first faced and clearly defined the African problem. It is he who marked out the destinies of New Africa. The elements of a convergent, complete, methodic policy were determined and arranged by him, assisted by all the light which the presence of numerous explorers and others in Brussels could throw upon this great desideratum. The most illustrious explorers, the presidents of the leading geographical societies of Europe, learned men and statesmen, all combined to enhance the prestige of the memorable International Geographical Conference of September 12, 1876.

September 12, 1876 is a date which must ever remain engraved in the heart of every friend of human progress. As time goes on, that day will only become more and more remarkable. In Belgium, where twenty-fifth anniversaries are in such high esteem, it might well have been remembered in 1901. If the Africa of the future with its millions of negroes rescued from barbarism, with its railways and telegraphs, with all its increasing material and

moral progress,—if Central Africa, in its wealth and happiness, shall some day celebrate on its lakes and rivers, in its valleys and on its mountains, its great Thanksgiving Day, the date of the Brussels Conference and the name of Leopold II. will then be greeted with the acclamations of peoples who will only be re-echoing the just verdict of history.

The character and extent of the initiative taken by Leopold II. in 1876 can be clearly ascertained by means of official documents.

« So far, » said the King in his letter of invitation, after pointing out that several expeditions, financed by private funds, had already been sent to Africa and had testified to the general desire to arrive at a satisfactory result, « so far, the efforts which have been made have been put forth without a common policy. »

« I recently learned in England, » he continued, « that the leading members of the Geographical Society of London were quite willing to meet at Brussels the presidents of the chief geographical societies of the continent and such persons as, by their travels, studies and philanthropic aims, are most closely identified with the efforts to spread civilization in Africa. Such a meeting would justify a sort of Conference the object of which would be to jointly discuss the present situation in Africa, to ascertain the results already achieved, and to define future action. »

In opening the Conference, His Majesty indicated the object to be aimed at in these words :

« To open up the only portion of the globe where civilization has not yet penetrated; to dispel the darkness which shrouds entire peoples; to discuss and decide

upon the means to be adopted and the steps to be taken in order to plant permanently the standard of civilization on the soil of Central Africa. (1) »

And in what terms did the assembly, presided over by the King, formulate its views as to how all this should be accomplished? The resolution of the Conference with regard to civilising stations is drawn up in the following words :

« In order to reach the object of the International Conference of Brussels, namely : *to explore scientifically the unknown portions of Africa,—to facilitate the opening up a pathway for civilization in the interior of the African continent,—to seek means for the suppression of the slave-trade in Africa,—it is necessary :*

» 1. — To organise on a common international plan the exploration of the unknown portions of Africa, limiting the territory to be explored on the east and west by the two seas, on the south by the basin of the Zambezi, on the north by the frontiers of the new Egyptian territory and the independent Soudan. The most practicable method of exploration will be the employment of a sufficient number of isolated explorers, who shall set out from various bases of operation.

» 2. — To establish as bases for these operations a certain number of scientific and hospital stations, both on the coast and in the interior of Africa.

» Of these stations a limited number will have to be established on the eastern and western coasts, at points where european civilization is already represented, at Bagamoyo and Loanda for instance. These would be, as it were, *Entrepôts* for providing travellers with the means of existence and of exploration, and could be established at small expense inasmuch as

(1) *Conférence géographique de Bruxelles. Compte rendu de la séance inaugurale du 12 septembre 1876.*

they should be managed by Europeans already residing at the respective points.

» Other stations should be established in the interior, at spots convenient for supplying the immediate needs of the explorers. The establishment of these latter stations should be commenced in the most appropriate places for the object in view. For instance, Ujiji, Nyangwe, the residence of the king, or some point situated in the domains of Muata-Yamvo might be selected, and explorers would later on be able to suggest sites for new stations of the same character.

» Leaving the question of reliable communication between the stations to a future date, the Conference expresses the wish that a line of communication, as far as possible continuous, be established from Ocean to Ocean, following approximately the route of Commander Cameron. The Conference also expresses the hope that similar lines of communication from north to south will be established later.

» The Conference appeals to the good will and cooperation of all travellers who undertake scientific explorations in Africa, whether they travel under the auspices of its International Committee, or not. »

Systematic exploration, with the establishment of hospital and scientific stations as starting point,—civilization with the suppression of the slave trade as ultimate goal : such was the task which rendered necessary the creation of a new organism.

The Conference considered that the formation of an International Central African Committee of exploration and civilization, seconded by National Committees, would be a practical means of attaining the desired end. The active part of the work was referred to an Executive Committee composed of the King of the Belgians as President, Dr. Nactigal, Sir Bartle Frere—who soon resigned, on accepting an official position under his Government, and

was succeeded by Mr. Sanford, and—M. de Quatrefages, with Baron Greindl as secretary.

Speaking advisedly of the situation of his own country, the King had remarked, in his inaugural address, that Belgium was « happy and contented with her lot, » adding, however, that he would be « glad to see Brussels become the headquarters of this civilizing movement. »

In reading the report of the Brussels Conference, one is struck with the practical wisdom and appreciative foresight of the King of the Belgians.

While proposing the establishment of a system of permanent stations, he at the same time defined their scope. They would be hospital posts and places of refuge for explorers; they would be scientific observatories, centres of geographical, geological, climatic and ethnographic research. Science would profit by them first, then commerce, industry, missions and every branch of human activity. They would also be centres of civilization helping to pacify the barbarous tribes around them, offering a refuge from the slave dealer, placing some technical education within the reach of all, as a step towards a more civilized life and a higher degree of human culture.

This task was doubtless the work of a more distant future, but the Conference, always keeping in view the importance of efforts towards civilization, did not lose sight of it when it was considering the economic and moral factors necessary to promote the work of the permanent stations.

The various plans discussed at the Brussels International Geographical Conference for the purpose of realizing the ideas of the King of the Belgians are too often forgotten.

Who remembers the magnificent plan which, after tracing a line of communication between the eastern and western coasts of Africa, from Bagamoyo to St. Paul of Loanda, grafted perpendicularly on that line three branches, towards the Congo, towards the Nile and towards the Zambezi, and connected the land sections of the two last-named waterways by means of steamboats on the Nyassa, the Tanganika and the Victoria-Nyanza (1)? England, at any rate, has not lost sight of the economic and political importance of that conception. After consideration, the Conference decided on an object more easy of attainment *viz.*, the exploration of unknown equatorial Africa, the establishment of explorers' stations on the coasts of the Indian and Atlantic Oceans, and inland at Ujiji, at Nyangwe, and in the dominions of Muata-Yamvo. The Conference expressed the hope, as we have already seen, that these posts would be connected by means of a line of communication « as far as possible continuous, » and that other lines would be opened from north to south. The enterprise thus had a precise point of convergence without excluding any further steps which future events might justify.

3. — THE PROBLEMS OF THE FUTURE. —

THE IDEA OF SUPPRESSING THE SLAVE-TRADE IN ITS HOME.

A start had been made, the preliminary plan had been drafted. On all sides it was recognised that the African

(1) *Conférence géographique de Bruxelles. Rapport présenté par Sir Henry Rawlinson. Compte rendu*, p. 19.

question had entered on a new phase, though of course many points relating to « future contingencies » remained to be settled. That science and humanity were interested in the success of the scheme, there could be no doubt. Who would have dared to contend that the development of the work had no significance for the economical and political future of Africa? But these prospects were still very distant, and the Conference could only relegate to the future such problems as belonged to the future. The first task to be taken in hand was a Herculean one and that task had to be pressed forward; but, as Vice-Admiral de la Roncière-le Noury pointed out, the Conference had no wish to hinder outside action nor would it impede what M. de Semenov called « the natural course of events (1). »

The new enterprise was helping forward, in a defined and important manner, a series of measures which had long been contemplated by civilized States. Suppression of the slave-trade had been aimed at in various diplomatic instruments since the Congress of Vienna. But those efforts had been almost exclusively directed against slave-traffic at sea. The Brussels Conference, on the King's initiative, took up the problem of how to deal with this scourge in its very home and on the roads traversed by slave-caravans.

It is not without interest to recall how the King of the Belgians, as far back as November 6, 1876, described a state of things which, some twelve years later, so greatly excited public opinion.

« Slavery, still existing in a large portion of the

(1) *Conférence géographique de Bruxelles. Compte rendu*, pp. 14 to 16.

African Continent, » said Leopold II., in the inaugural meeting of the Belgian Committee, « is a plague that every friend of civilization must desire to see destroyed.

» The horror of this state of things, the misery of the victims who are yearly massacred by the slave-trade, the even larger number of perfectly innocent beings who, brutally reduced to captivity, are condemned wholesale to penal servitude for life, have deeply moved those who have studied the deplorable situation, and they have decided to meet, to come to an understanding, in fact to found an International Association for the purpose of stopping this horrible traffic which puts the present age to shame, and of tearing asunder the veil which still hangs over Central Africa (1). »

« The International Association, » added the King, « in no way claims the monopoly of the good which can and ought to be done in Africa. It should, especially at first, guard against too extensive a programme. If, sustained by public sympathy, we succeed in opening up routes, and establishing stations to help travellers, we are convinced that we shall at the same time be furthering—and that, in no small measure—the evangelisation of the blacks and the introduction of trade and industry amongst them.

» We boldly affirm that all who are interested in the emancipation of the black races are interested in our success. »

(1) *Association internationale pour réprimer la traite et ouvrir l'Afrique centrale*. Compte rendu de la séance du Comité national belge du 6 novembre 1876.

It was, not without reason therefore, that a great apostle of African regeneration, recalling these words, the first that were deliberately and officially uttered in favour of the abolition of the African slave-trade in its very home, wrote thus to His Majesty Leopold II. on November 8, 1889 : —

« Posterity will place the name of Leopold II at the head of the most illustrious benefactors of humanity, on account of his sovereign enterprise, his perseverance and the sacrifices devoted by him on behalf of this great cause.

» It is to Your Majesty that the interior of our Continent will owe its resurrection. It was in Brussels that Your Majesty gathered together, twelve years ago, those most capable of usefully cooperating with Your Majesty, by reason of their knowledge, their influence in their respective countries, as well as by their loftiness of aim (1). »

Irresponsible pamphleteers sometimes speak, with a strange disregard of facts, of the opportunity which, in their opinion, this or that Power might have, of enriching itself by some spoliation of the young African State. They obviously forget the degrading nature of such a proposal when it is considered in relation to the special claim to international inviolability which the Sovereign of this State derives from his useful initiative in Africa. Perhaps they think that people are wont in politics to tolerate much and to condone even more. But the conscience of civilized peoples still enforces certain duties which nobody can avoid. And the wisdom of nations coined into a proverb tells us that « it is wicked to seethe the kid in its mother's milk. »

(1) Letter from His Eminence Cardinal Lavigerie to H. M. Leopold II. *Documents sur la fondation de l'œuvre antiesclavagiste.* Paris, 1889.

4. — INTERNATIONAL WORK AND NATIONAL TENDENCIES.

Neither individuals nor nations are in reality the brutal monsters that certain pessimistic detractors of human nature would have us believe. Nor are they (is it necessary to add?) the angels of perfection or the paragons of altruism imagined by deceptive optimists. Weak human nature, split up as she is into nationalities, must not be expected to exhibit too much international feeling, especially when political interests are concerned. The Conference found it necessary, in drawing up regulations to meet difficulties and contingencies which were foreseen, to declare that the National Committees should to a certain extent be autonomous, « according to the method which should seem preferable to them. » Notwithstanding that the duties of these Committees, and their relations with the central institution, were defined with a due regard to susceptibilities, the English branch, formed in connection with the Geographical Society of London, under the name of « The African Exploration Fund, » though holding views similar to those of the Executive Committee and sending the latter £ 250, preferred to give to its action a purely national character.

With regard to material resources, the Belgian Committee, taking advantage of a wave of generosity, had collected half a million francs. Abroad, hardly a hundred thousand francs were subscribed. In fact, but for the zeal of isolated individuals and the valiant collaboration of the African pioneers whom the King had gathered around him, Leopold II. soon found himself, to use an expression which in this connection is not without

some local colour, « almost alone with his elephant on his hands. » Sir Edward Malet, in expressive language, reminded the Berlin Conference of this situation « Throughout a long course of years, » he said, « the King, ruled by a purely philanthropic idea, has spared neither personal efforts nor pecuniary sacrifices in anything which could contribute to the attainment of his object. Still the world generally viewed these efforts almost with indifference. Here and there His Majesty aroused sympathy, but it was rather the sympathy of condolence than of encouragement (1). » As often happens in enterprises undertaken on a collective basis, the work was personified in its initiator, who could neither assure it an effective international character, nor make it purely Belgian, for Belgium maintained, with respectful admiration, a somewhat expectant attitude. We do not refer to the Army, that great school of fidelity and devotion, where the King's efforts, from the first, found so many followers always ready to make the most heroic sacrifices.

While rendering all justice to individual cooperation, we are bound to say, for it is the absolute truth, that the whole responsibility was left to Leopold II. ; all the outgoings and deficits (at that time the most prominent features) fell upon him, and people witnessed the spectacle, in many respects unique in history, of a man's will wrestling alone with the civilization of a world.

That man, it is true, was not a private citizen : he was a reigning prince whose prestige was an important element

(1) *Protocoles et Acte général de la Conférence de Berlin (1884-1885)*, p. 266.

of success, but whose country certainly did not as yet take much account of his undertaking.

The start was not exactly encouraging. The Belgian Committee, the first to be formed, was entrusted with the work of establishing a station at Lake Tanganika, setting out from Zanzibar. The task was accomplished, but only after heroic efforts and heavy sacrifices ! The Committee, or rather the King, sent successively six expeditions. Those who took part in them nearly all perished. Cambier and Storms, the founders of Karema and M'pala, are, if we mistake not, the sole survivors of those early exploring parties ; and it has been truly said that the story of the first five years of Belgian effort in the Congo reads like a martyrs' roll. In Belgium, through the mists of the Ocean, what was called « the African Minotaur » assumed fantastic shape.

The German Committee had organised the Böhm and Reichardt expedition which preluded German settlement in East Africa. The French Committee organised two parties, including that of Brazza, which finally settled in Gabon and the French Congo. National exclusiveness and political enterprises came to the front. While the Committees of several countries had been obliged, owing to lack of funds, to give up participation in an international programme, the Committees of other countries, in order to avoid a similar disaster, solicited and obtained from their respective Parliaments' funds to carry on their work, and the political nature of this assistance necessarily drove them into separate political action. It became evident that each of the countries interested in Africa meant to work on its own account. It would be unjust to attribute this to

the Belgians or to their King, whose idea and work were disinterested and truly international. The fact is that circumstances compelled the King to give a different course to his action, under penalty of renouncing all future work in Africa. And it is also true that he was induced to adopt this line in order to avoid dangerous international complications. We think we are right, moreover, in stating that the British Government, in view of the then passing events, assured our Sovereign that a new plan, inspired by new circumstances, would meet with no opposition from England. It is true, however, that statesmen, in England and elsewhere, were inclined to consider the attempts at colonization in Central Africa as an almost idle dream.

It is in the light of these observations that we must consider the reproach, sometimes addressed to King Leopold, of having departed from the initial character of his work.

5. — NEW ASPECT OF THE AFRICAN PROBLEM

The International African Association chose for the pattern of its flag a golden star on a background of blue : magnificent symbol this, of a mighty moral power. It was an admirable emblem, no doubt, but of little avail against the native aggressions and European rivalries which were looming in the distance. The clearsighted promoter of the African movement was the first to acknowledge this and to scrutinize such parts of the African problem as the Brussels Conference had wisely left for future solution. It was not long before he discovered

practically that in the circumstances, no permanent results could be obtained by means of isolated stations, surmounted by a moral emblem, but without any adjacent territory and without sovereign rights over that territory. Several years' experience had made this clear. The establishment of a protective and wisely progressive Government in Central Africa had become for Leopold II. a *sine qua non* in the realization of his plans of civilization. And no one will doubtless reproach him for having been the first to perceive the connexion that existed between those plans and the wonderful discoveries of Sir Henry Stanley, which gave a new aspect to the problem stated by the Brussels Geographical Conference. We have seen that the King was the first to declare that « the International Association in no way claimed the monopoly of the good which could and ought to be done in Africa. » And we have shown how future events and subsequent contingencies had to be foreseen.

Some people have tried to reproach King Leopold a rather singular thing, namely for not having published broadcast the convictions which he had gained by experience. But if he had done so, he would, in all probability, have nipped his plan in the bud, and we will venture to add that if it is permissible for a strong man to act warily, prudence is absolutely incumbent on the weak. When a man has made a new road, he may surely be allowed to walk in it himself and to peacefully remove the obstacles that impede his progress. Is it usual for Governments to act publicly, when a question of priority of possession is at stake?

Such disparaging terms as « diorama and dissolving

views » have been far too freely used in describing the various phases of the King's plan for solving the difficulties which it encountered. To be sure, his penetration and wisdom are none the less admirable. But forms of speech and equivocations do not destroy facts. Nobody doubted that the King was the head, the heart, and the right hand of the African enterprise. The most sagacious diplomats, including such Englishmen as Sir Edward Malet, considered, as we have already pointed out, the idea of creating a State and installing a proper Government in the centre of Africa as an almost utopian one. The reproaches, then, are tantamount to chiding King Leopold because he succeeded where other people thought he would fail. This indeed must be recognised, as it was also admitted in the following loyal terms by Sir Edward Malet at the Berlin Conference :—

« It was thought that the undertaking was beyond his power, that it was too great for success. We see now that the King was right, and that the idea which he was following up was not an utopian one. He has carried it out successfully, not indeed without difficulties, but these very difficulties have made his success all the more brilliant (1). »

Such will be the judgment of posterity. History will proclaim that Leopold II. was not only the real initiator of the African movement in the second half of the nineteenth century, but that he instituted in Equatorial Africa a type of government as novel as it was admirable, and one here-

(1) *Protocoles et Acte général de la Conférence de Berlin (1884-1885)*, p. 266.

tofore considered by the most enlightened of his contemporaries as a beautiful, but impracticable dream. We shall endeavour to bring out this point more clearly in the next chapter and will close the present one by recalling a circumstance, the memory of which lies buried in the official documents of this great royal undertaking. When the question of the choice of a flag for the International African Association was being discussed, one of the King's illustrious guests proposed to place a sphinx in the centre of the standard, the sphinx being an emblem of the formidable and mysterious African riddle which had to be solved. But the King preferred the more confident symbol of a star, the sign of enlightened guidance and of radiant hope. This showed that *he* doubted no more, that *he* firmly intended to pursue his course without faltering. And this story is not without its moral. When a great forward movement in the interests of humanity has taken place, your motto must be *Go ahead!* even though to do so seems like a leap in the dark. True wisdom is prudent but never pusillanimous. To advance is to dare. Let us not forget the words of the Divine Master to the Galilean fisherman : *Duc in altum!* And let us, too, know how to launch out into the deep.

CHAPTER II.

Government Civilization in New Countries. Entrance of the Congo State into the community of Nations.

While cosmopolitan politicians, ignoring the historical law of social development and the most permanent instincts of our nature, combat the patriotic sentiment in the name of humanity, proscribe the title of nation as narrow, selfish, opposed to human fraternity, and fancy that people can only be united by losing their individuality in some sort of « single State without frontiers, » our epoch has seen a Monarch, the benefactor of his people and of universal civilization, convert this same humanitarian sentiment into the creative principle of a new State.

Men are so accustomed to see violence play a preponderating part in the rise and fall of empires, that they are astonished when a political constitution is founded without either national convulsion or international shock, and they contest the legitimacy of new States where the serene majesty of the law breaks forth in unexpected beauty. The national individuality of the Congo Free State is no longer a matter of doubt. The existence of that State is universally recognised as of right. But neither the manner in which this new comer took its place among the nations, nor the fact of its acknowledgment by the other

Powers, seem to have been justly appreciated. It is not without interest, in this connexion, to take up the thread of the past, firstly for the sake of the remarkable origin of the Free State. and secondly to contradict the superficial judgment expressed by consequential publicists, and even by some statesmen.

4. — GOVERNMENT CIVILIZATION IN THE INDEPENDENT COLONY.

In the first place it must be confessed that jurists were rather puzzled when they attempted to apply their old methods of classification to the newly founded Congo State. Not a few of them found no place in their systems for such an unprecedented case, as it seemed to them, and thereupon they felt justified in pronouncing a sort of ostracism. They forgot that the living wealth of the various forms of social and political life is not limited by the vocabularies of learned men. They ignored the fact that institutions must be adapted to men and to existing needs not forced into artificial categories. They did not bear in mind the common-sense maxim formulated by the old Hermogenian : *Hominum causâ omne jus constitutum est* (1). The Legislator who believes in progress and desires to adapt law to fact, and not to trammel fact by law, instead of seeking to proscribe an institution because it does not fall under any recognized limit only perceives the need for revision of a too hastily-adopted classification.

In the present case, however, such a revision was not

(1) L. 2. *De statu hominum*, 1. 5.

indispensable. The existence of an autonomous colonizing State, working side by side with States whose colonial activity is auxiliary to their national and principal object, has nothing unusual about it. Civilization as the sole object of a State is quite justifiable. It is not difficult to imagine (and facts have proved the conception to be well-grounded : facts which silence those who deny them) a sovereign Power, constituted for the purpose of promoting civilization, and, by means of its own resources and of voluntary contributions, establishing an effective Government in a territory for the benefit of a people in whom it is interested. Whatever has been said about the anomalous and unnatural character of a colony independent of a mother-country has in reality no foundation.

Pascal has said that the way to overthrow a State is to sound its depths in order to demonstrate its weakness in the exercise of authority and administration of justice (1). If certain investigations into the past may destroy Governments, other researches may undoubtedly strengthen them. To the latter class belong those inquiries which reveal in the history of a people such as the Belgians the elements of a traditionally autonomous life, leading to a higher destiny. Such are also those researches which link the origin of a State, like that of the Congo, with the progressive and pacific evolution of humanity.

The autonomous civilizing or colonizing State founded by His Majesty the King of the Belgians may be considered in its principle, that is to say, in that which gives it its fundamental legitimacy : from this point of view, its para-

(1) *Pensées*.

mountly just and moral value is best seen. It may also be considered in the means employed for its formation : under this aspect, it possesses the highest legal authority. Considered, finally, in regard to its constitutive elements, and leaving aside its acknowledgment by other Powers, it unites in itself all the factors necessary to constitute a perfect sovereign political community. Let us briefly consider these points.

2. — CIVILIZATION OF SAVAGE TRIBES.

The ideal of carrying the blessings of civilization to unenlightened races all over the world is one of the noblest designs which can be born of the human mind. The employment of private as well as national enterprise in this connexion is fundamentally justified by the right of helping beings created, like ourselves, for progress and by the fulfilment of the holy law of brotherhood. That law is the more binding upon us from the fact that the unenlightened races are severely handicapped in their struggle to emerge from barbarism. And, moreover, modern progress helps us to accomplish that law. To nations who have enjoyed prosperity under a constitution established in accordance with their wishes, the fulfilment of that law appears as one of the most elevated forms of gratitude to Divine Providence.

The privilege of helping to civilize barbaric tribes includes the right of placing them on the high road to the higher degree of social organization from which a State is born to international life. To help them in this way is

to endow them with the blessings of an institution which is the common right of humanity; it is to assure them that peace and order, without which there can be no civilizing education; it is to throw open to them the higher life of the civilized world.

The action of superior races, in this respect, does not imply—as some would have us believe—the destruction of the inferior races. The earlier blunders which have, in some cases, brought about such a result are not inevitable. Modern colonization, in spite of reproaches hurled against it, does its best to avoid such blunders and, as history shows, is successful in not a few colonial establishments. In the tropics, interest plays as important a part as duty in bringing about this result, for the harmonious co-existence of the European and the native, and the combination of the necessarily diverse forms of their activity are in such climates the *sine qua non* of all colonization.

All and every means are of course not legitimate in bringing barbaric tribes within the pale of civilization. But among those which are unquestionably justifiable may be mentioned the establishment of pioneer outposts or stations whence civilization can operate on barbarism; the peaceful grouping of tribes around a central authority; and the cession by tribe-Chiefs of their sovereign rights. And it must not be objected, with regard to the last-named means, that, because of the ignorance of the Chiefs, such cessions are null and void; for, if the native Chiefs are uninitiated in the refinements of political methods, they cannot be wholly ignorant of the natural elements of a contract. They are in no wise incapable of transferring their sovereign rights to, and of recognising the superior

power of, the leader who comes before them with a promise to help in their defence and in their progress; the Chiefs are in no wise slow to welcome, in this respect, the flag of civilization.

Civilizing enterprise applied to savage tribes, and without ignoring the essential rights of humanity, may and should take due account of the social condition of such tribes : avoiding the extremes of treating them as brutes or of dealing with them as with highly-civilized citizens; noting their difficulties in commencing the upward march of progress; protecting them against their enemies and against themselves; stimulating and guiding them to healthy effort; inspiring them, in short, with an ambition for a better and higher life, and teaching them to appreciate its blessings.

Thus understood, the work of civilization can well proceed side by side with the search for the advantages resulting from the entrance of new members of the human family into the life of civilized peoples. Those advantages include the extension of economic relations and the development of newly-discovered natural wealth. The stimulating power of interest joined to the incentive of duty gives to efforts of this nature their maximum of intensity.

3. — THE LEGAL FOUNDATION OF THE CONGO STATE.

Let us examine, by the light of the observations just made, the facts which we must discuss.

For centuries there had lived in Central Africa millions of men in a rudimentary social condition, in an almost constant state of anarchy, incapable of extricating them-

selves from the swamp of barbarism, only connected with the great human family by the odious and blood-stained chain of slavery.

The condition of these races, living « in the valley of the shadow of death, » alone constituted a powerful and continual appeal to the enlightened nations to accomplish the law of human solidarity. That appeal was, nevertheless, made in vain for centuries.

Human solidarity is not, as some seem to think, an empty name. It is a law which becomes more and more evident as human relations extend. The secret of the terrible crisis, which so many nations are at present undergoing, and which threatens their welfare, may well be sought in the disregard or forgetfulness of the duty inherent to human solidarity, either with respect to the lower classes within the dominions of those nations, or with regard to the unfortunate races without.

Countries where energy, products and capital accumulate, invariably feel more or less the want of permanently safe and inexhaustible markets in which to distribute their wealth. Such countries would have found excellent outlets if, instead of relying only upon themselves, they had set about inducing new peoples to help in the general work of civilization. In these circumstances, it may be contended that the disregard of the duties of human solidarity is at the root of much of our material suffering, and that economic salvation is to be found to-day in the fulfilment of humanitarian obligations.

It was from this noble and elevated point of view that His Majesty Leopold II. considered the situation in those hours of royal solicitude when his attention was concen-

traded first on the economic needs of his people, and secondly on those distant lands where life and wealth abound — although but rudimentary life and unproductive wealth. We already find signs of a clear insight into the demands of the modern industrial and commercial world in the first speeches delivered in the Senate by the Duke of Brabant (1). It is not surprising to find that the same energetic will which declared : « I will pierce the darkness of barbarism, » announced a little later, guided and inspired by subsequent events : « I will secure to Central Africa the blessings of a civilized Government. And I will, if necessary, undertake this gigantic task alone. »

4. — GENERATING PRINCIPLE OF THE NEW POLITICAL ORGANISM. — FALSE POINTS OF VIEW.

The initiative of His Majesty Leopold II. bore, from the very start, a clearly-defined personal character. His whole work has preserved it permanently. In this magnificent enterprise—where the labour, as well as the honour, was immense—it seemed as if the King was to rely on his own wisdom and on the judgment of posterity alone. It was not as King of the Belgians that he meant to act. Still less did he intend to depend on any other State besides Belgium.

His work was a humanitarian one, in the highest and best sense of the term. The future Sovereign of the Congo, as soon as his plan was conceived, carried it out, taking advantage of any co-operation afforded him, reckoning

(1) See the author's *Le Duc de Brabant au Sénat de Belgique*. Paper read at the *Académie Royale*, May 6, 1903.

with all the circumstances, providing for everything, until the time when the Congo State appeared before the world, with its maker and Sovereign at its head.

People imagine sometimes that the Congo State only exists as a creation of the Berlin Conference. This idea is not accurate. The State has certainly not forgotten the sympathy and help accorded to it in its upward march. But, so far from being the creation of the assembled Powers, the Congo State is preeminently the result of individual effort. It does not seem possible, from a legal point of view, to interpret the generous support granted for political purposes as checks upon sovereignty. It is necessary to point out that the questions of sovereignty and of territory, questions which are most essential in the constitution of States, were expressly eliminated from the programme of the Conference, which was only called upon to elaborate a local economic regime, leaving aside the question of the sovereign rights over the countries concerned. It is also necessary to remember that, even before the signing of the Berlin diplomatic instrument, the new State existed in such a degree as to be able to notify to the Conference the fact that it had been recognised by all the Powers—except one, which soon after followed suit. The fact that Prince Bismarck introduced the youthful State to the assembly of civilized nations at Berlin was certainly an honour for that State. That circumstance was, so to speak, its lucky star; but if it has seemed to throw earlier events into the shade, it has not suppressed them, and could not legally destroy them.

The fact of the recognition of a State must not, however, be confounded with the fact of its existence. The

determining elements of the one and of the other are not identical. It is, as a rule, to themselves, that States owe their existence. That existence does not always date from a single incident. It may be the result of a series of events which, in the end, sufficiently reveal the advent of a new State.

It has been argued that a State could not emerge from a private association. But King Leopold has refuted that argument by his own action, just as the philosopher of old demonstrated the principle of movement by walking. The argument had been, otherwise, shown to be historically false and legally untenable. It is idle to assert that barbaric races, living in virgin territory in a state of isolation or anarchy, cannot be brought to the knowledge of orderly government by the instruments of civilization which give them a political education, and at the same time raise the elements of their primeval state to the higher level of a political community. It is equally idle to assert that such races can only advance by being swallowed up in existing States, which deny to the savage tribes the very means of progress by which, perhaps, they themselves developed their own civilization.

Again, with regard to independent tribes having some semblance of sovereign government, why should not their less organised methods be developed in such a manner that their local administrations merge into a higher and central authority?

What is obviously true, as a principle, is that the State, in common with every other institution, has certain essential and constitutive elements of its own, and without which it cannot be conceived. Those elements are a territory,

a population linked together by some form of political bond, and an effective Government at the head thereof.

The fact is, these elements of a State existed in the neighbourhood of Stanley Pool long before the Berlin Conference, and they existed in a sufficient degree to form a duly-constituted Central African State. And the action of this State was destined to be all the more efficient on account of the immense rivers which served as the highways of the country.

5. — ACTUAL FORMATION OF THE STATE. —
ITS DECISIVE EVENTS.

The fact, which we have just stated, is incontrovertible. The why and wherefore are of a more complex nature, although not difficult to discern.

We have seen at the cost of what sacrifices the Belgian Committee of the International Association, urged by the King, successively despatched, six expeditions from the coast of East Africa in the direction of Tanganika. The results proved as uncertain as the work had been laborious. The arrival of Stanley at Boma, on April 9, 1877, after a three years' exploring expedition, in the course of which he had described a gigantic curve in the heart of Central Africa, created a sensation. To the King it came as a revelation. The sketch of Stanley's journey, published in the *Daily Telegraph* of November 12, was most suggestive. Central Africa had in her vast and wonderful system of waterways a ready-made means of material and even moral and political progress; and the steamer appeared to be the *conquistador* of this new world. A

powerful instrument of civilization from every point of view had been discovered. A new factor had given a new aspect to the problem proposed by the King to the Brussels Conference. What the Conference had but suggested as desirable—« a line of communication as far as possible continuous » joining the posts of civilization—Nature had provided, but for the initial obstacle, to an unexpected extent. The thoughts of the King forthwith turned from the East, until then so deceptive, to the promising West of the Dark Continent. Without losing a moment, His Majesty thought out a plan in accordance with the latest discovery, and, when Stanley landed in Europe, in January 1878, he met the Commissioners from H. M. the King of the Belgians, who informed him of His Majesty's plans, and asked for his co-operation (1). The grandeur, the boldness, and the novelty of the scheme were far from discouraging the intrepid explorer. He accepted. The foundation of a stable economic and even political system had to be established on virgin territory, destined to be connected with Europe, and that end was to be achieved, either by federating the more powerful native Chiefs, or by some other organization better suited to conditions as yet imperfectly known.

Under the title of *Comité d'études du Haut-Congo*, with the King as Honorary President and Colonel Strauch as President, a company was formed in Brussels, with a capital of one million francs. The work of investigation carried on by this company was destined speedily to eclipse the relatively feeble efforts of the International African Association.

(1) STANLEY, *The Congo*, vol. I, p. 21.

The date of the foundation of the Committee was November 23, 1878. On August 14, 1879, Stanley and the staff of the expedition, composed of thirteen agents besides porters recruited at Zanzibar, were at the mouth of the Congo, at which spot a number of steamers awaited them. The journey up stream was begun on the 21st, on board the ships named the *En Avant*, *Espérance*, *Jeune Africaine*, *La Belgique* and *Le Royal*.

The post of Vivi, beyond Nokki, which was then the limit of European occupation, was reached in a short time. The journey across the region of the Cataracts, where the steamers were taken to pieces, followed and was only accomplished after much suffering and hardship. On February 21, 1880, Isanghila was founded and on May 1st, 1881, Manyanga was occupied. In December 1881, the expedition arrived at Stanley Pool, and shortly afterwards the *En Avant* cut the waters of the virgin river.

Reconnoitring parties were then sent out in every direction, stations were established, and steamers started running between them. A number of treaties were concluded with the Chiefs of independent native tribes, so as to protect the territory acquired in this way against subsequent competition. Soon the rudiments of administrative and police services were organised, as the first essentials of a regular Government. All this was carried out without violence or bloodshed.

Having thus laid the foundations of a territorial Government, the Upper-Congo Committee appropriately changed its name to the International Congo Association. Its activity in the work so brilliantly inaugurated redoubled. Minor expeditions were sent out right and left of the great river,

to the basin of the Niadi Kwilu, to the Upper Kassai, to the Lunda country, and even farther afield. As M. Wauters justly said : « Five years sufficed to make the most brilliant discoveries, even in the very centre of the Continent, to visit peacefully hundreds of new tribes, to obtain from native Chiefs more than five hundred treaties of suzerainty, to establish forty stations, to place five steamers on the waters of the upper river beyond the Cataracts, to occupy the whole of the country between the Coast and Stanley Falls, between Bangala and Luluaburg (1). »

It was an anxious time in Brussels, where hope and fear alternated as the King's pioneers in Africa proceeded with the systematic and peaceful conquest of a world.

One can now understand why all the constituent elements of a State were to be found in the Stanley Pool region previous to 1884, and how the influence of those elements was brought to bear upon an ever-growing radius. As stations of the youthful State were established on newly-explored territory, and as concessions of native sovereignty were made, so did the sphere of operations extend. The form of Government—federated negro tribes, single State, or otherwise—does not affect the question. The point to be noted is that the claim to the occupation of vacant territories and to the acquirement, by way of cession, of sovereign rights was not inferior to the titles relied upon by the European Powers in the course of their colonial expansion. It was in these circumstances, that the question of the recognition of the new State by the Powers came up for solution.

(1) *L'État indépendant du Congo*, p. 27.

6. — RECOGNITION OF THE STATE.
CONCURRENT INTERESTS OF THE POWERS.

« The recognition of a State by other sovereign States, » says Bluntschli, « while having the appearance of a voluntary act on the part of the latter is, nevertheless, not absolutely voluntary; for international law unites, even against their will, the various existing States, and combines them into a sort of political association. » « And just as an existing State, » he goes on to say, « cannot arbitrarily shake off the bonds which attach it to other States, so those other States cannot arbitrarily exclude an existing State from the concert of nations (1). » We must note that it was not a question of the arbitrary exclusion of the new State. It came into existence supported by the general sympathy of Governments and peoples, and it has been truthfully observed that a good fairy was present at its birth (2).

The interests of the Powers, together with considerations of justice and humanity, helped to bring about this result.

Certainly, France, when entering upon the foundation of her colonies, would have asked for nothing better than to mark them out in virgin territory. But, in the then state of her colonial development, she preferred to have to deal with a new State than with powerful nations who might menace her welfare. The initial want of con-

(1) *Droit international codifié*, L. II, §§ 35, note, and 36.

(2) WILMOTTE, *La Belgique et l'Etat indépendant du Congo*, REVUE DE PARIS, May, 1, 1902.

fidence in the stability of the work undertaken in the vicinity of her influence in reality led the French Government to seek for certain advantages in the shape of a right of pre-emption, in view of a possible alienation of the possessions controlled by the African sceptre of King Leopold. But in acting thus, far from exhibiting any signs of hostility towards an undesirable neighbour, the French Government on the contrary manifested as M. Etienne has pointed out, « the intention to provide, from the first, against the intervention of some great Power which might suddenly take the place of the African Association (1). » As regards the founder of the new State, he had the less reason for declining any concessions in this respect, because the realization of the hypothesis put forward by his neighbour formed no part of his design. In his opinion, it was only a question of calming groundless fears, at a time when the good will of a powerful neighbour was eminently valuable.

Such is the real origin and the true meaning of this right of pre-emption, sometimes still transformed into a sort of scarecrow, and which, both in its letter and in its spirit, excluded any more extended interpretation, and all application by analogy to Belgium.

England could not but be favourably disposed towards the new State. In both the business and the political world, the eminently practical mind of our neighbours across the Channel at once understood the bright and prosperous outlook opened up by the development of this new neutral State of Central Africa, a State which could in no wise

(1) *Dépêche coloniale*, July 13-14, 1901.

endanger the political or commercial equilibrium for the benefit of any one of the great Powers. For a moment, at the request of Portugal, who had tardily realised the profit she might have derived from the neglected situation, the British Government—until then a supporter of the absolute independence of the Congo—seemed inclined to help in extending Portuguese influence over the estuary of the Congo, subject to certain conditions and provided that a mixed commission were appointed. But English public opinion, subsequently better informed, and warned as it was of the opposition with which such an arrangement would meet abroad, was not long in declaring in favour of a solution which would cause British interests to harmonize, on broader lines, with the interests of others.

Those interests were numerous, and the practical sympathy speedily accorded to the International Congo Association by the greatest Power of the New-World, the United States of America, full of life and vigour and ever inclined to progress, proved that King Leopold's enterprise had secured public support and official sanction far beyond the limits of Europe. On April 10, 1884, the American Senate, on a striking report by Mr. Morgan (1), passed a resolution asking the President of the United States to recognise the Association « as the governing Power of the Congo. » A few days later, on April 22, 1884, that recognition was an accomplished fact. In officially

(1) See *Compilation of reports of Committee on foreign relations*. United States Senate. *Recognition of Congo Free State*. March 26, 1884, Washington, Government Printing Office, 1902. Vol. VI. p. 221. The appendices include, among other documents, the notes of Sir Travers Twiss and Mr. Arntz.

recalling, at the opening of the Berlin Conference, the nature and cause of this great act, Mr. Kasson, Chief Plenipotentiary of the United States, pointed out that, in consequence of Stanley's explorations, the newly-discovered regions « would certainly be exposed to the dangerous rivalries of conflicting nationalities. » « It was the earnest desire of the Government of the United States that these discoveries should be utilized for the civilization of the native races, and for the abolition of the slave-trade ; and that early action should be taken to avoid international conflicts likely to arise from national rivalry in the acquisition of special privileges in the vast region so suddenly opened to commercial enterprises. » Referring to the work so effectively performed by the International Congo Association « under high and philanthropic European patronage, » he said that those gallant pioneers of civilization had « obtained concessions and jurisdiction throughout the basin of the Congo, from the native sovereignties which were the sole authorities existing there and exercising dominion over the soil or the people. » « They immediatly proceeded » he added, « to establish a Government *de facto*. » Declaring next that the legality of the acts of that Government should be recognised, under penalty of recognising « neither law, order nor justice in all that region, » he concluded as follows : « The President of the United States, on being duly informed of this organization, and of its peacefully acquired rights, of its means of protecting persons and property, and of its just purposes towards all foreign nations, recognised the actual government established, and the flag adopted by this association. Its rights were grounded on the consent of the native inhabitants, in a

country actually occupied by the association, and whose routes of commerce and travel were under its control and under the authority of its administration. He believed that in thus recognising the only dominant flag found in that country, he acted in the common interest of civilized nations. »

« In so far, » said the American Plenipotentiary in concluding, « as this neutral and peaceful zone shall be expanded, so far does he foresee the strengthening of the guarantees of peace, of African civilization, and of profitable commerce with the whole family of nations (1). »

Such was the remarkable position taken up by the United States of America in regard to the recognition of the newly-established government in Equatorial Africa. Germany was the first European Power to consider the subject of recognition, and to accord to the new enterprise marks of its sympathy and the support of its authority. In acknowledging, by the Convention of November 8, 1884, concluded before the Berlin Conference opened, the flag of the International Congo Association « as that of a friendly State, » the German Government clearly indicated that, in their opinion the new State should from the first take its place among the Powers called to the Conference.

In duly introducing the « new Congo State » to that assembly, Prince Bismarck paid an exceptionally flattering tribute to the foundation of an enterprise, the concourse of which appeared to all to be bound up with the realisation of the noblest designs of the Areopagus of Berlin.

(1) *Protocoles et Acte général de la Conférence de Berlin (1884-1885)*, p. 23 ss.

Certainly the hardships inseparable from such a vast and complex undertaking were ever present during the establishment of the first outposts of civilization in the heart of African barbarism. All great undertakings are started amidst difficulties. We do not possess the necessary documents to trace the course of the territorial negotiations pursued with Portugal, and, moreover, those negotiations are to-day of purely historical interest. The result of those negotiations and of the arrangements made with France may be summarized as follows. The Congo Free State lost a province containing its most flourishing establishments. It also lost what is to-day the Kabinda enclave in its territory. In consideration of these sacrifices, and thanks to powerful mediation, the State obtained an acceptable territorial arrangement, and became definitely established on both banks of the Congo, controlling the north bank as far as Manyanga, retaining both of the estuary ports, Banana and Boma, with the option of establishing a third one on the southern bank at Matadi, and of constructing thence in the direction of Stanley Pool a railway situated wholly within its territory.

The initial obstacles having been surmounted, the political horizon grew brighter, until, at the historic meeting of February 23, 1885, the work of King Leopold, amidst the acclamations of Europe, was seen in the full light of day in all its sovereign beauty : The crown of civilization upon its brow, its princely robe overshadowing the whole of Central Africa from the Atlantic Ocean to Tanganika, glorious with the brightest hopes and stimulated by past effort, worthy, in all respects of the admiration of nations and the gratitude of humanity.

7. — THE PERSONAL UNION. — OFFICIAL TITLE OF THE STATE.
NOTIFICATIONS.

To affirm the community of its sentiments with those of the European Powers, and to honour the royal work both from the point of view of its grandeur and from that of the future of Belgium, the Belgian Parliament, by its votes of April 26 and 30, 1885, authorized His Majesty King Leopold II. to become Chief of the newly formed State and thus to wear two crowns, which were destined to remain distinct under the regime of a personal union.

On May 2, 1885, the King sent to the Resident Governor of the Congo the decree proclaiming his accession to the throne of the new State.

On July 1st, Sir Francis de Winton, who had succeeded Sir Henry Stanley as Governor, officially communicated to the heads of the missions and commercial establishments in the Congo the text of the decree.

On August 1st and on subsequent dates, the Sovereign notified to the Powers that « the possessions of the International Congo Association would henceforth form the Congo Free State, » and that, in accordance with the wishes of the Association, he had assumed the title of « Sovereign of the Congo Free State. » At the same time he informed them of the personal nature of the union between Belgium and the new African State.

On the same dates, the Sovereign notified to the Powers the exact extent of the Congo territory which he proposed to place under the regime of perpetual neutrality. Submitted, before its notification, to Prince Bismarck,

to whom the State owed this mark of grateful deference, the declaration of neutrality gave rise to no objection whatever on the part of the Powers.

Such were the circumstances surrounding the reception of the Congo Free State among the society of nations.

8. — CHARACTER OF THE HOMAGE RENDERED TO THE STATE. — INFLUENCE OF ITS ESTABLISHMENT ON THE DEVELOPMENT OF AFRICAN POSSESSIONS.

We can now direct our attention to the international regime applied by the Berlin Conference, especially from an economic point of view, to the vast territory included in the basin of the Congo. To complete the survey we have just taken, it will be well to recall the testimony borne by the plenipotentiaries of the Powers represented at the Berlin Conference on February 23, 1885, to the work accomplished by the King.

GERMANY, through Herr Busch, expressed herself as follows : —

« We all do justice to the high aim of the undertaking to which His Majesty the King of the Belgians has affixed his name ; we are all aware of the efforts and sacrifices by means of which he has led it to the point at which it now stands ; we all pray that the most complete success may crown an enterprise calculated to second in so practical a manner the views which guided the Conference. »

GREAT BRITAIN, as we have already had occasion to recall, expressed herself as follows through Sir Edward Malet : —

« Throughout a long course of years the King, ruled by a purely philanthropic idea, has spared neither personal effort nor pecuniary sacrifices in anything which could contribute

to the attainment of his object. Still the world generally viewed these efforts with an eye almost of indifference. Here and there His Majesty aroused sympathy, but it was in some degree rather a sympathy of condolence than of encouragement. It was thought that the undertaking was beyond his power, that it was too great for success. We see now that the king was right, and that the idea which he was following up was not an utopian one. He has carried it out successfully not indeed without difficulties, but these very difficulties have made his success all the more brilliant. Whilst rendering homage to His Majesty in fully recognizing all the obstacles which he has had to overcome, we greet the newly-constituted State with the greatest cordiality, and we desire to express the sincere hope that we may see it prospering and increasing under his protection. »

FRANCE, through Baron de Courcel, after pointing out that « the neighbours of the Congo Free State will be the first to profit by the development of its prosperity and of all the guarantees for order, security and good administration with which it undertakes to endow the centre of Africa, » added :—

« The new State owes its birth to the generous aspirations and to the enlightened initiative of a Prince who receives the respect of Europe. It has been dedicated from its cradle to the cause of freedom. Being assured of the unanimous good will of the Powers which are represented here, let us hope that it will fulfil the destinies which it promises under the wise guidance of its august originator, whose moderating influence will be the most precious guarantee for its future. »

ITALY, through Count de Launay, associated herself with the above sentiments in the following terms :—

« The whole world cannot fail to exhibit its sympathy and encouragement on behalf of this civilizing and humane work which does honour to the nineteenth century, from which the

general interests of humanity profit and will always continue to derive further advantage. »

The remaining Governments—Austria-Hungary, Russia, Spain, Portugal, Sweden and Norway, Denmark, the United States—through their Plenipotentiaries, successively paid their tribute to the work of civilization and humanity performed by the King of the Belgians (1).

We would note, too, that the last words spoken at the Berlin Conference, were the words in which Prince Bismarck rendered homage to the new State and expressed his good wishes for its prosperous development and the accomplishment of the noble aspirations of its illustrious founder.

Such universal encouragement must endow the enterprise with an unconquerable strength. The celebrated explorer who was the King's first coadjutor called this great manifestation the coronation of the Congo Free State by civilization. He said also : « All men who sympathize with good and noble works—and this has been one of unparalleled munificence and grandeur of ideas—will unite with the author in hoping that King Leopold II., the Royal Founder of this unique humanitarian and political enterprise, whose wisdom rightly guided it, and whose moral courage bravely sustained it amid varying vicissitudes to a happy and a successful issue, will long live to behold his Free State expand and flourish to be a fruitful blessing to a region that was until lately as dark as its own deep sunless forest shades (2). » Who would refrain from re-echoing such a wish?

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 264.

(2) *The Congo*, pp. 407 and 408.

In the preceding chapter, we showed how the Brussels Geographical Conference gave the initial impetus to the African movement. The influence of the permanent foundation of a central civilizing State has not, perhaps, been sufficiently insisted upon. If the vast African domain, after such long and universal neglect, has become the object of keen competition, if the Powers have suddenly and deliberately proceeded to a partition of the territory—a partition, the importance of which was not at first realised—it is reasonable to suppose that the work done by King Leopold in Central Africa was not altogether unconnected with that result. The failure of that work would have discouraged further attempts; its success, on the contrary, was a conclusive experiment, a sufficient stimulus, a permanent and living exhortation, far more convincing than a thousand theories and calculations. In the struggle for taking possession, certain Powers occasionally saw in the Congo Free State a neighbour who was somewhat too enterprising for so young a nation. A consideration of their own history might have shown them that if the State had not advanced, they would never have made such headway, and that if their young neighbour had not succeeded, their own undertakings would, perhaps, have been more restricted. To sum up, in spite of the opposition which at one time existed, the undertaking has resulted in the welfare of all and led to general harmony.

PART THE SECOND

THE GREAT TREATIES

CHAPTER I.

The Berlin Conference and the economic Regime of the Congo.

I.

The origin of the African Conference.

To bring good out of evil is a task which is often imposed in international relations. To profit by the false steps of others is one of the choicest pleasures of diplomacy. The attempted diplomatic appropriation of the estuary of the Congo by Portugal was not successful; but that attempt became, in the hands of Bismarck, the starting-point of a memorable International Conference.

France, like Germany, was disturbed by the Anglo-Portuguese arrangement respecting the estuary of the Congo. The same anxieties arose at the Quai d'Orsay and at the Wilhelmstrasse. The German Government, aroused by events and called upon to act from various quarters, approached France, and an understanding was soon arrived at respecting the advisability of holding a Conference of the Powers—which course, indeed, Portugal herself had suggested. This, if we mistake not, was the first time the

two great nations took common action since the Franco-German war.

The moment seemed to have arrived when certain delicate questions in the African situation required to be settled by a general meeting of the Powers concerned. For some time these problems had occupied the attention of those who follow the evolution of the law of nations and the course of international life. It will be remembered that Gustave Moynier in 1878, and, a little later, Emile de Laveleye and Sir Travers Twiss had raised several points at the « Institut de Droit International, » relative to practical jurisdiction in the Congo basin, and that the Institute, at its Meeting held at Munich on September 7, 1883, at the instance of M. Arntz, adopted various resolutions on the subject (1). Thus science prepared to some extent the way for diplomatic discussion, and science was destined, by the deliberations of the Institute on the Act of the Conference, and especially by the Lausanne Declaration concerning the question of occupation, to throw light on the official work of the Governments (2).

The African Conference of Berlin, summoned « in the name of Germany in perfect accord with France, » assembled on November 15, 1884. Fourteen Powers of the New and Old Worlds took part in it, and their proceedings lasted till February 26, 1885.

The initial proposals of the German Government were

(1) *Annales de l'Institut de droit international*, vol. III., p. 155; vol. VII., pp. 250 and 278. *Revue de droit international et de législation comparée*, vol. XV., pp. 254, 437 and 547.

(2) *Annales de l'Institut de droit international*, vol. VIII., p. 346; vol. IX., p. 244; vol. X., pp. 176 and 201.

magnificent : liberty of navigation on all African rivers, and exemption from transit dues along the whole of the African Coast, as well as an era of peace and free trade to be inaugurated in Central Africa, with conditions to be laid down for actual occupation. In fact, Germany seemed, in many respects, to be playing a very safe game. The concerns of the Powers whose possessions were more particularly at issue were somewhat different. This helped to limit the preliminary scheme, and as we have already remarked, territorial questions as affected by sovereignty, were purposely excluded from it. As set forth in the notice summoning the Powers to the Conference, and as it was afterwards carried out, not without amplitude by the labours of the conference, the programme of the international Arcopagus assembled at Berlin remains highly remarkable.

The African Conference of 1884 has been in turn the object of undue praise and of unmerited condemnation. « Inauguration of a truly new era in colonial affairs, » say some. « A work of theorists without any experimental basis, » declare others. There is, perhaps, some exaggeration in each of these opposite opinions.

The Conference will always deserve the credit of having guided colonial and commercial rivalries towards a peaceful solution at a time when the fever for colonization was at its highest. Nobody has more accurately described the duty imposed by the meeting of the Powers and duly undertaken by them, than the American Plenipotentiary in the memorandum which he read in the course of the deliberations.

« The first colonies founded in America, » said Mr. Kasson,

« were the work of different nationalities. Even there, where at first emigration was of a free and peaceful nature, foreign Governments were soon installed, with military forces to support them. Wars afterwards broke out in Europe. The belligerents had colonies, and soon the field of battle spread to America. In the heat of the struggle, each of the belligerents sought allies amongst the natives whose natural inclination for violence and plunder was thereby excited. Horrible acts of cruelty ensued, accompanied by massacres in which neither age nor sex were spared. The knife, the lance and the torch transformed peaceful and happy colonies into deserts.

» The present condition of Central Africa recalls much that of America when that continent was first opened up to the European world. How are we to avoid, amongst the numerous African tribes, a repetition of the unfortunate events, to which I have just alluded? How are we to guard against exposing our merchants, our colonies and their goods to these dangers? How shall we defend the lives of our missionaries and religion itself against the outburst of savage customs and barbarous passions?

» Finding ourselves in the presence of those whom we are urging to undertake the work of civilization in Africa, it is our duty to save them from such regrettable experiences as marked the corresponding phase in America (1). »

The Berlin Conference, moreover, claims credit for having placed the preservation and the civilization of primitive peoples in the front rank of all colonial enterprise worthy of the name.

The Conference, as we have already remarked, did not deal specifically with any questions of territorial sovereignty,

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 185. Report read by Mr. Kasson at the meeting of the Committee on December 10, 1884.

but it helped considerably towards the solution of some of the most difficult among those questions.

At the same time the Conference formulated wise, although incomplete, regulations concerning the future occupation of African territory, and provided for so many cases of dispute which might arise in the territory thus circumscribed, and even in districts beyond it.

It applied in advance to vast regions of Africa, independently of other guarantees of peace, a new and remarkable form of neutrality.

With regard to individuals, it considered the position not only of the native races but of foreigners of all nationalities, whether « pioneers of commerce or pioneers of civilization in general, » to quote the words of Baron Lambermont.

Finally it applied to those same regions the principle of free trade and free transit, and that not limited to navigation only but, extended also to various other means of transport. Let us now examine the situation created in this respect by the General Act of the Conference.

II.

The Berlin General Act and Commerce.

1. — THE PLACE OF COMMERCIAL CONVENTIONS IN THE LAW OF NATIONS. — THE EFFECT OF THE BERLIN ACT IN THIS RESPECT.

The law of nations binds sovereign Powers together. Its cardinal principle is the recognition and respect of the sovereignty of States. If it places limits to this principle,

they are limits not of subordination, but of co-ordination between sovereignties equal in presence of each other.

Those limits, in the first place, result from the fundamental law of nations, which co-ordinates States in an international community according to a universally accepted rule of justice and good will.

They may also be the outcome of agreements freely made between the Powers, beyond the general law of nations, and constituting for them a particular stipulation. One of the objects often aimed at in these agreements is to secure for foreign residents privileges which are not granted by the general law of nations, notably in commercial matters. Such concessions, arranged between the various States, form part of international law, but the subject matter with which they deal remains the same. The personal rights of foreigners appear merely as the object of an international understanding.

The Berlin Conference, by establishing, in certain regions, the principle of free trade, acted in the sense we have just indicated. Commenting upon the work of the Conference in his inaugural speech, Prince Bismarck thus described its scope :

« The labours which we are about to undertake will tend to regulate and develop the commercial relations of our countrymen with that Continent, and to serve alike the cause of peace and humanity. »

In principle, a sovereign State may adopt that commercial policy which pleases it best. And this principle holds good in its colonial territory, whether it be an actual extension of the home territory, as some writers contend, or a mere dependency.

Colonial policy was for a long time merely a series of restrictions. The regime of unequal or exclusive relations, by which a home Government controls its colonies, is known to history as the « *pacte colonial*. » The Berlin Act changed matters considerably.

It established complete and universal free trade in the district regulated; and, with regard to such freedom, subjects and foreigners were placed on the same legal footing.

This programme was a decided advance on the old « *pacte colonial* » which made the mother country the only market for colonial produce; which imposed on the colony the duty of supplying that market; which built round the colony, as it were, a wall of purely artificial commercial relations; which finally gave rise to wars between European nations for the purpose of siezing colonies of a rival, and to conflicts between colonies and their home Governments.

While not being altogether unprecedented in colonial administration—for Great Britain had for some time pursued this policy, and a few other countries had attempted to follow her example—the broad-minded measures of the Berlin Conference did away with many of the existing anomalies. Doubtless, the general application of those measures to all colonies would have been a step in the right line; but while their general adoption could have been justified on the same grounds as their special application to the Congo, the Conference would not have been able to accomplish such a gigantic reform of distributive equity. The Conference, in any case, did made no attempt in this direction. It felt that the impracticability of the scheme as a whole did not prevent its partial application;

that it was not easy to reform the whole world at once, especially the colonial world ; that the limits within which it was capable of operating were large enough ; and last but not least, that the nature of the territory, where the Government was as yet more or less insecure, was calculated to induce those concerned to make exceptional sacrifices.

The Conference therefore made the following regulations for the Congo basin :

« ART. 1. — The trade of all nations shall enjoy complete freedom.

» ART. 2. — All flags, without distinction of nationality, shall have free access...

» ART. 3, § 2. — All differential dues on vessels as well as on merchandise are forbidden.

» ART. 5. — No Power which exercises or shall exercise sovereign rights in the above-mentioned regions shall be allowed to grant therein a monopoly or privilege of any kind in matters of trade. »

Let us, for the moment, confine our attention to these points. We shall, later on, consider the remaining resolutions of the Conference.

2. — COMMERCE AND COMMERCIAL MATTERS UNDER THE BERLIN ACT.

What is here meant by the terms *commerce* and *commercial matters*?

An elementary knowledge of economic and legal science is sufficient to make their sense clear. The sense generally attached to these terms in diplomatic instruments is equally precise. But in the present case all doubt can be removed by consulting a special and authoritative declaration on the subject.

Baron Lambermont's report, included in the fourth protocol of the Conference, settles the meaning of these terms according to the Berlin Act. That report says :—

« No doubt whatever exists as to the *strict and literal* sense which should be assigned to the term « *in commercial matters*. » It refers *exclusively to traffic*, to the unlimited power of every one to sell and to buy, to import and to export products and manufactured articles. No privilege can be created *under this head*; opportunity remains open without any restrictions, for free competition *in the domain of commerce*, but the obligations of local Governments do not go beyond that point. »

Thus, as the report points out, there can be no doubt about the meaning of the terms : the Berlin Act deals with commerce in its strict, technical sense, with direct or monetary exchange of economic produce, with trade, in short, and with *trade exclusively*. Free trade means free trade for subjects and foreigners alike, free trade as a private right. Every one may sell his own goods; every one may buy goods put on the market for sale; every one may enjoy the profit accruing to him through such transactions. And it was to secure this free selling and buying, it was to safeguard personal liberty, irrespective of nationality, that the Conference decided that neither monopolies (*viz.* exclusive licences), nor privileges (*viz.* unequal treatment), should be granted.

It should be borne in mind that monopolies and privileges may be applied to many spheres of human activity : to industry properly so called, to public contracts, and to other public services. All these spheres of activity remain outside the scope of the Berlin Act.

This Act is so far from confounding commerce properly

so called, trade that is, in its literal sense, with industry for example, that it makes separate and distinct provisions in favour of each; and it carefully mentions them whenever a provision is made in the interest of both. Thus article 10, which regards neutrality : « In order to give a new guarantee of security to commerce *and* industry, etc. »

The Act too, makes a marked distinction between the carrying on of commerce, and the exercise of other professions. While, by virtue of an international arrangement, commerce is free, the exercise of other professions is not dealt with in the same manner. In this connexion, as well as for the general protection of life and property, the acquisition and transfer of real and other estate, article 5, § 2, leaves to each State the duty of taking suitable precautions and making due regulations, except in matters of trade. But a guarantee is always provided to the effect that foreigners shall enjoy the same rights and receive the same treatment as are accorded to the State's own subjects. Subsequent restrictions must, therefore, be applicable to subjects and foreigners alike. In other words, the motto is equality, rather than complete freedom.

3. — EXEMPTION FROM CUSTOMS DUTIES. — AUTHORIZED TAXES.

The placing of foreigners and subjects on the same footing, provided for in article 5, § 2, of the Berlin Act, was a large and bold conception. The decision to grant equality of treatment as well as the privilege of complete freedom to foreign traders, was an equally bold step. But the Conference did not stop there. Naturally, it did not admit that

commercial freedom should have as a corollary the exemption of traders from all taxation. On what grounds, having made a clean sweep of so many privileges, could it have permitted this? Participating, as they do, in the blessings of security, order and administration afforded by the Government, and being specially benefited by certain services organized by that Government, it is only right that traders, in common with other members of community, should bear their share of the expenses of administration. The Conference could not and did not ignore such an elementary truth. What it actually did was this, on the one hand, it prohibited, temporarily at least, certain forms of taxation on merchandise, and on the other hand, it limited the duties on certain goods. Let us further examine these points which are so often and so persistently misrepresented.

Dealing rather severely, it must be admitted, with the financial and administrative organisation of the States having interests in the Congo, the Conference thought fit to forbid, temporarily but absolutely, customs duties on goods whether imported or *in transitu*.

« Merchandise imported into those regions, » says article 4 of the Berlin Act, « shall remain free from import and transit duties. »

The absolute prohibition of import duties, by whatever precedent it may be supported, is in itself a somewhat unusual measure.

That prohibition could not fail to create, from the first, financial difficulties, from which the Free State has emerged with honour, thanks to the exercise of

rigid economy, thanks also, let us add, to private munificence, and contingencies of that kind, we venture to think, should not be allowed to affect political estimates.

Nothing really justified such a rigorous measure. It was not a corollary of the principle of liberty and equality of exchange even in a wide sense; for certain dues on foreign produce may constitute a source of revenue for the public treasury, without having any unequal or prohibitive characteristics.

If such an abuse of import duties were feared as should practically amount to complete prohibition, that abuse would not have been without its remedy. In the first place, it was to the interest of the country to foster its own trade, and to prevent its neighbours diverting it to themselves. Again, commercial privileges, differential tariffs and the consequent equality in trade for foreigners and subjects alike, all combined to minimize such an abuse. And supposing that these safeguards were considered insufficient, abuses could certainly be prevented by moderating the amount of import dues, without going as far as an absolute prohibition of those duties.

Considered in the light of the universal practice of Governments, the measure adopted by the Conference appeared to be condemned by every nation in Europe and America depending for its revenue on duties similar to those prohibited by the Conference.

Compared with a sound system of imposts, this measure was defective and halting. It forced the interested States to burden a relatively small portion of the dutiable produce with charges susceptible of a fairer and better distribution.

Applied to rising colonies, the measure was unreasonable for it ignored the fact that such colonies had practically no other sources of revenue but those which it forbade.

Applied to countries whose economic arrangements were in course of formation and might undergo material changes, the measure did not seem to indicate any wise foresight.

Imposed on a State gallantly rescued from barbarism by an august personal initiative, and which should have been allowed considerable latitude in working out its own development, the measure was as little in harmony with the claims of the past as with the needs of the present or the contingencies of the future.

It must be acknowledged that, in establishing this scheme of exemption from duties, unconnected as it was with the other franchises, the Conference did not sufficiently realize the necessity for a new State, whose economic and political machinery had still to be created, to be free in the choice of its sources of income, and to establish means of revenue adapted to its needs. If a like measure might, at a given moment, be justifiable on account of a prevailing tendency to trade under an organized Government as if it were a country with neither frontier nor Government, it was very doubtful whether, even in that case, it would be really profitable to commerce, since such a measure would be not calculated to strengthen either the fiscal regime or the general prosperity of a well ordered State. No wonder, then, that this part of the work of the Conference did not long resist the test of time, and that it was at last abandoned in favour of a less faulty regime.

The Powers, it is true, never intended to make this

measure as permanent as the other regulations for the government of the Congo basin. They considered it rather as an experiment. Article 4 of the General Act stipulates :—

« The Powers reserve to themselves the right to determine, after the lapse of twenty years, whether this freedom of import shall be retained or not. »

« It would never do, » Baron de Courcel justly remarked, « to renew the colonial experience gained in the sixteenth century, when Colonies were brought to ruin by those who insisted upon fixing in Europe, from a point of view of the mother country, their financial and administrative existence (1). »

« Experience, » said Baron Lambermont, « will by that time have shown the interested Powers what measures would be most favourable for the development of commercial progress in their possessions (2). »

It is none the less true that the experimental system inaugurated by the Conference necessarily had a prejudicial effect—most prejudicial during the early and more difficult years—on the economic life of the new State. In this connexion, those who complain of what they style the fiscal ingenuity displayed by the Congo Free State in providing itself with the wherewithal to continue its existence, must acknowledge that stern necessity alone rendered the State ingenious. The Congo State has always been the first to recognise that, imperious as were the demands it had to meet, they did not free it from contracted obligations.

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 41.

(2) *Protocoles et Acte général de la Conférence de Berlin*, p. 238.

But the Powers might well have seen fit to prove their goodwill towards the new State, to gracefully bring their rights into line with the needs of a civilizing Government, to proffer the hand of friendship to that Government, and to make a point, not only of placing no obstacles in its way, but of supporting its action to a certain extent.

At any rate, by prohibiting import duties, as a temporary experiment, the Conference did not intend to suppress all taxes on goods taken into the interior of the country. On the contrary, it expressly provided for the equitable taxation of such goods, to meet expenditure usefully incurred in the interests of commerce. At the same time, the amount of such taxation was limited to such expenditure, and provision was again made for the equal treatment of foreigners and subjects. Article 3 of the General Act runs to the following effect :

« Wares of whatever origin, imported into these territories, under whatever flag, by sea or river, or overland, shall be subject to no other taxes than such as may be levied to meet expenditure usefully incurred in the interests of commerce, and which for this reason must be equally borne by the subjects themselves and by foreigners of all nationalities. All differential dues on vessels, as well as on merchandise, are forbidden. »

The motive for this regulation, and the reason why the hands of the authorities were not tied by fixing a settled rate of compensatory taxation, are set forth as follows in the report annexed to the fourth protocol of the Conference :—

« The rate of the compensatory taxes is not fixed in any definite manner. The co-operation of foreign capital ought to be placed together with commercial freedom, amongst the most useful aids to the spirit of enterprise, whether it has reference to the

execution of works of public utility or whether it has in view the development of the cultivation of the natural products of the African soil. But capital only goes, in general, to places where the risks are sufficiently covered by the chances of profit. The Commission is as therefore of opinion that more disadvantages than advantages would result from binding too strictly, by restrictions arranged in advance, the liberty of action of public powers or of concessionaires. If abuses should arise, if the taxes threatened to reach an excessive rate, the cure would be found in the actual interest of the authorities or of the contractors, seeing that commerce, as experience has more than once proved, would avoid establishments the access to, or use of which had been rendered too burdensome (1). »

Excepting, then, the prohibition of one form of indirect taxation, *viz.*, the import and transit duties, and the restriction of the duties payable on goods imported to the compensatory taxes which we have just referred to, the establishment of all forms of taxation, either indirect, such as export dues, or direct, such as mere license taxes, remains a legitimate method of causing commerce and traders to contribute towards the public treasury.

The question of river and railway dues will be examined later. Suffice it here to state that the organized contribution of traders, as of other items of economic activity, has never been, nor could it, save in the cases we have indicated, ever be rightly considered as incompatible with commercial freedom. This is especially the case in regard to the dues thus described to the Conference by Count de Launay : « taxes which, even in the most civilized countries, it is customary to collect without being thought thereby to detract from the principle of commercial

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 85.

liberty (1). » This is so universally true with regard, for example, to trade licenses, that the French law of March 2-17, 1791—which, we imagine, gave the most emphatic assent of modern times to the principle of commercial freedom—maintained the license dues in the very clause that proclaimed such freedom. Article 7 of the law says :

« Everybody shall be free to carry on any business he thinks fit, provided he first obtains, and pays for a license, and submits to any police regulations that are or may be enacted. »

This article brings out the justice of, and the necessity for the co-ordination of a liberal commercial freedom with the exigencies of the public treasury and of public order. And it leads us to a closer consideration of the extent of that freedom, as recognised by the Berlin Act.

4. — EXTENT AND LIMITATIONS OF COMMERCIAL FREEDOM UNDER THE BERLIN GENERAL ACT.

Remarkable as the commercial freedom inaugurated in the Congo by the Berlin Act may be, perfect as it may appear, it is by no means absolute, indefinite in extent, or lacking in due co-ordination with older or superior rights. Unlimited freedom does not exist in social life. The provisions of the Berlin Act, moreover, so far as they restrict commercial autonomy on the part of the contracting States and limit their sovereignty, are of an exceptional character, and must be strictly interpreted.

I. — The commercial freedom inaugurated by the

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 21.

Berlin Act involves first of all certain international limits, with respect to transactions rendered illegal by International law, or forbidden by special agreement between the Powers. The slave-trade falls under the former; the trade in arms and spirits, under the latter. We will return to these briefly-indicated points later.

II. — The second category of limitations on commercial freedom are derived from national public order, essential to all organized forms of government. We have already seen that the Acts which declared most firmly the principle of commercial freedom, and especially clause 7 of the French law of March 2-17, 1791, set forth the « necessity of submitting to any police regulations that are or may be enacted. » As Sir Edward Malet, the English Plenipotentiary, clearly pointed out at the Conference, freedom of commerce unchecked by reasonable control would degenerate into license (1).

The power of the State in this connexion is indisputable. That power is derived directly from the primary right and duty to maintain public order everywhere and in all circumstances. Nobody can deny the State the right to take steps, for example, for the preservation of public safety. Government cannot be carried on without a judicial and administrative police system, and a State could not renounce that prerogative without laying itself open to a charge of incapacity in its primary and essential functions. Hence, such a renunciation could not be argued from mere presumptions or inductions.

In the present case, moreover, the bases of any presump-

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 8.

tion or induction are wanting. The fact that the Conference established freedom of private right in dealings between all individuals, whether subjects or foreigners, does not imply that it desired to interfere with the exigencies of public order in the relations between the Government and those over whom it rules.

The exercise of the administrative power may, sometimes it is true, prejudice trade. In such cases a *modus vivendi* between commercial freedom and the administrative police should be loyally sought. But the State remains ultimately judge of the arrangement. All that can be reasonably claimed is that the State shall not transform its powers which it possesses for safeguarding the general interest, into a vexatious or oppressive instrument.

III. — A third limit to commercial freedom—an appreciable modification of, although it does not directly affect, that freedom—may result from the sovereign right of a State to levy taxes with a view of causing trade to contribute its share towards public expenditure, like every other branch of private activity.

We have indicated on what plan the right of collecting taxes was limited at Berlin. Import and transit duties were abolished, and interior taxation on merchandise was allowed in moderation, without, however, any figures being specified. Apart from these reservations and from the respect due to commercial freedom rightly understood, this economic system by no means involved any loss of financial independence on the part of the States interested in the conventional basin of the Congo.

IV. — Commercial freedom, moreover, in no way abrogates the acknowledged rights of a State over any property

it may have legitimately acquired. This point has given rise to no little controversy, outcome of conflicting interests, and hence sufficiently comprehensible but, from a legal point of view, altogether irrelevant. Nevertheless, it is our purpose to fully discuss the question in every detail, in order to settle the point definitely.

5. — PUBLIC AND PATRIMONIAL DOMAIN OF THE STATE. —
THEIR CONSTITUTION.

The institution of the public domain of States, composed of possessions duly and permanently allocated to the public service, either because of their nature or by the operation law, is as universal as it is necessary.

The institution of a patrimonial domain mainly but not exclusively, consisting of real estate, owned and managed by the State, just as private property is owned and managed by individuals, is not less universal. The institution is altogether legitimate; and it is always necessary to some extent. It affords the State a means of revenue which must otherwise be exacted from labour and capital in the form of taxation. How is it that the States interested in the Congo basin have renounced their rights of ownership—acquired in a regular and recognised manner? Such renunciations can certainly not be based on presumptions or on far-fetched, ingenious and exaggerated inductions.

A modern Sovereign does not necessarily become by reason of his sovereignty, the immediate proprietor of all property situated in his domains. The *imperium* and the *dominium* are distinct, although they have often been con-

founded in the past, and even to day traces of this confusion still exist. But that which constitutes an essential attribute of all sovereignty, that which is necessary to the welfare of the body politic, is the right of the Government to regulate the legal status of all property within its jurisdiction, to determine the titles of ownership, the modes and forms of its devolution, and the limits to be fixed thereto in the public interest. The Sovereign is the supreme legislator from this point of view. In the ordinances which he is called upon to make relating to the rights of property, he has the power to issue such rules as he may deem wise for the legal acquisition of property. And, in the case of property without an owner, he can indisputably decide upon its ownership. Whether he leaves such property to the haphazard of individual occupation, retains discretionary control over it, or vests it in himself, he is acting altogether within his sovereign capacity. Applied to countries without a recognised authority, such legislation might be questionable. But in the case of an established State, it could not be disputed, either by another State or by individuals, more especially when that legislation, respecting all previously acquired rights, only affected such property as was without an owner at the time of its promulgation.

The occupation of a territory without a Sovereign, and that of land without an owner in a country subject to a recognised sovereignty, must not be confounded. The first may raise a question of international law; the second is a question of the law of the land in each State. This is equally true of strictly national and also of colonial territory. For if, in a given case, it is possible to deny that the

necessary conditions exist for the acquisition of sovereignty over a territory, it is impossible, as soon as the sovereignty has been admitted, to deny the logical consequences of that admission.

The action of a Sovereign in declaring that all unowned property belongs to the State cannot, therefore, be questioned. The wisdom of such a decree, which may well be dictated by just and urgent reasons, must be decided by the Sovereign who issues it. It is evident that it would be wrong for a government, even at the risk of trespassing on social interests, to leave waste land at the mercy of precarious individual occupation, and the consequent disputes which would certainly be the outcome for whatever the land might produce. Such a position would be untenable, for everybody agrees that the prosperity of a country depends largely on its land system and the proper use of the soil.

This principle is general in its application and Bluntschli has rightly said that the system which vests waste land in the State conforms to German ideas, and is admitted in the modern world (1). The principle holds good to-day, he adds, in England and the United States. In these countries, waste land in the new colonies is held to be State property and would be owners must purchase from the State (2).

The vesting of unowned property in the State has not the same importance at home as in the colonies. At home, it is limited to an appropriation of escheats. But in the

(1) *Droit international codifié*, liv. IV, n° 277, note.

(2) BLUNTSCHLI, *Théorie de l'État*, p. 222.

colonies, where the risk of dispute is greater, where the proper settlement of land is of vital importance, where the public resources are smaller and the public needs larger, the vesting of unowned property in the State is warranted by the most cogent reasons.

Then such vesting no longer wears the unjust aspect it formerly wore under the old right of conquest. It implies respect for existing private rights and for the claims of a native population, both in their purport and quality. And so we find this principle applied in colonies organized under the most varied commercial systems. Not only is it practically applied under the various Governments which have no interest in Africa, but also — and this is especially worthy of note — by the great Powers in their possessions and dependencies in the Congo basin.

The first clause of the German Imperial Ordinance of November 26, 1895, runs thus : —

« Subject to rights of ownership or other real rights claimed by individuals, corporations, native chiefs or communities, as well as rights of occupation by third parties resulting from contracts made with the Imperial Government, all land in German East Africa is vacant crown land. *The ownership thereof belongs to the Empire.* »

The following are the terms of article 19 of the Ordinance issued by the Commissioner for the French Congo, under date of September 26, 1891 : —

« Uncultivated soil and vacant land, to which nobody can lay legal claim, shall be considered as belonging to the State and shall form part of the colonial domain. »

Since that date, the decrees of March 28, 1899, relating

to concessions, have clearly affirmed the right of the State over vacant land.

A British subject is, by virtue of a legal presumption, the representative of his Government in any uninhabited land. « In such a case, » says Creasy, « the whole country becomes vested in the Crown; and the Crown will assign to particular persons portions of the land, reserving, as Crown land, all such as is not so assigned, and reserving also jurisdiction over the whole territory (1). » The Royal Charter granted on September 3, 1888, to the British East Africa Company contained concessions of powers implying the ultimate exercise of the Crown's prerogative over vacant property. Thus clause 23 authorizes the Company :

« To carry on mining and other industries, to make concessions of mining, forestal, and other rights; to improve, develop, clear, plant and cultivate any territories and lands acquired under this Charter, to settle any such territories and lands, and to aid and promote immigration into the same, to grant any lands therein for terms of years or in perpetuity, by way of mortgage, or otherwise. »

Without discussing the interpretation of this clause, let us notice here that the right of His Britannic Majesty to declare vacant land in his colonies to be Crown property is not contested, and that such right has been frequently exercised. For instance clause 4 of the Act annexing the Fiji Islands as a British possession runs thus :

« That the absolute title to all lands, not shown to be

(1) CREASY, *The Imperial and Colonial Constitutions of the Britannic Empire*, p. 66. SEE ANSON : *The Law and Customs of the Constitution*, 2nd edit., vol. II., pp. 264 et seq.

alienated, so as to have become bona fide the property of Europeans or other Foreigners, or not now in the actual use or occupation of some Chief or tribe, or not actually required for the probable future support of some Chief or tribe, shall be and is hereby declared to be vested in Her Majesty, Her Heirs and Successors. »

The International Colonial Institute has published five volumes of official documents on *Le Régime foncier aux colonies*. These documents and the accompanying notes throw much light on the point under discussion. The notes relative to German colonies were compiled by Mr. Herzog; those relative to French colonies, by Mr. Arthur Girault; for the Italian colony of Erythrea, by Baron de Franchetti; for the Dutch Indies, by Mr. Van der Lith; and for British India, by Mr. B. H. Baden-Powell, of Oxford. For the British colonies, which are reported in the fifth volume, the documents were kindly supplied by Mr. Chamberlain, Secretary of State for the Colonies, who sent to M. Jansen, Secretary General of the Institute and author of the article on the Congo, the replies furnished to his queries by the Governors, or High Commissioners (1).

This combined testimony seems conclusive.

6. — MANAGEMENT OF THE STATE'S PATRIMONIAL DOMAIN.

Having been duly included as State property, waste and unowned land may be regarded as being at the disposition of the State

(1) Bibliothèque coloniale internationale, 3^e série. *Le Régime foncier aux colonies*. Documents officiels précédés de notices. 5 vol. Brussels, 1898-1902.

The State may devote a portion thereof to the public service, in which case it becomes part of the Public Domain. The State may convey a portion absolutely to an individual or a corporation, and then either gratuitously or for a consideration, with or without conditions, more or less rapidly, according to the advantages accruing to the State by these several courses of action. It may grant the mere usufruct to some or to all, and that, in a greater or less degree and on its own terms. It may work the property itself and manage same as it sees fit, in order to apply the income to State needs.

All these and other similar proceedings are included in that free disposal and free enjoyment which constitute the essence of the State's right. They are so many variations of the State's position as owner; and there is no difference, as to the general character and fundamental rights of such ownership, between the rights of private property and the right of the State over its patrimonial domain.

With regard to mines and forests—two very important classes of property in a colony—it is hardly necessary to point out that, mining rights being distinct from surface rights, the State can reserve the former and regulate the concessions thereof in the public interest. Again, the exploitation of forests by the State and the granting of forest concessions are legitimate acts of State ownership, just as the laws enacted for the preservation of forests and which affect alike private and public domains, are legitimate acts of public authority.

The question of the disposal and use of the State's patrimonial domain is one of internal arrangement and

administration, which may be discussed as a question of colonial political economy, but depends for its legality on the sovereign judgment of the State.

This is so palpably necessary, that it is hard to see how any one claiming to understand colonial policy can contest the point. The circumstances, of course, are of endless variety, not only in different colonies, but in different districts and at different times. It stands to reason that each case must be treated on its own merits. In one case, the cession of land for a consideration is easy; in another, even free grants of land are impracticable. Sometimes individual or limited collective action may produce favourable results; sometimes only the most powerful companies can hope for success. In some circumstances, the State may be forced to undertake the cultivation and development of its property; under others, such action is inadvisable. Arrangements must depend on circumstances and on the objects in view. Thus do the conditions of the colonial problem alter, and call for varying solutions, according to the position of the State and the results it desires to obtain. The « en bloc » theory, as it is called by Chailley-Bert (1), and a rigid adherence to a preconceived system are nowhere more absurd than in colonial matters. Nowhere is it so unwise to dogmatise or to generalise from particular cases.

7. — LAND LEGISLATION AND COMMERCIAL FREEDOM.

Attempts have been made to convert the principle of commercial freedom set forth by the Berlin Act, into an

(1) *Dix années de politique coloniale*, Paris, 1902, p. 4.

obstacle to the steady organisation of land regime and of such colonial property rights, for the State or its concessionaires, as include the essential elements of ownership. It has been urged that the whole of the Congo basin should, from an economic point of view, remain in the condition of waste land, abandoned to the use of whoever should care to collect, even temporarily, the produce of the soil; and that the State, as such, should not settle and manage the land for the benefit of the country. Such a colonial policy, neglecting the proper working and development of the land, would fail in its elementary and most useful task.

The strange theory, which takes advantage of commercial freedom in order to combat the development of colonial property, fails in one striking particular. It amalgamates with the view of making one destroy the other, two distinct economic factors, operating in such absolutely different spheres that any confusion of them is juridically impossible. The right of ownership and the right of commerce are distinct, and the affirmation of the latter cannot imply the negation of the former. The arrangement of the land regulation and the system of commercial exchange cannot be confounded.

The theory we impugn here has still another fault: it sins capitally against the Berlin Act and against international law. That theory distorts the very meaning of the word commerce, as set forth by the Conference, notably in the topical passage of its Report which we have quoted above. How can the rights of commerce, in its technical and literal sense,—a commerce consisting, as the Report declares, *exclusively* of trade in produce,—conflict with

universally-admitted rights of working and of managing the land in accordance with colonial needs? If one reflects on the probable consequences of such an interpretation of the Berlin Act, it will be readily admitted that such could never have been the intention of those who signed it. A general rush, on the system of sweeping everything ahead, into « no man's land » would mean permanent anarchy. It would cause devastation, not colonization. It is useless to urge that such a system of unregulated land tenure would be likely to attract capitalists and pioneers, and thus help to develop the colony. If everybody were permitted to indulge in an adventure at once free from restriction and devoid of security, where is the prudent capitalist who would care to lay out money on the development of resources of which the next man who comes that way might rob him?

The ownership of property, by its very nature, implies an exclusive right of disposal and use. But the Berlin Act considers this consequence as quite in harmony with commercial freedom; for it recognises the establishment and regulation of ownership, as in clause 5, § 2, with express reference to the mode of acquisition and transfer.

If by monopoly be meant all private right of disposal and use, ownership may, under certain circumstances, be classed as a monopoly. But it must be remembered that the Berlin Act does not prohibit every class of monopoly; it only forbids the granting of commercial monopolies. The ownership of land, of course, does not fall under this category.

If it were desired to discriminate between the property of

individuals and the patrimonial property of the State, the distinction would be a strange one, for it would recognise ownership in the case of the grantee, and deny it in the case of the grantor. If it be objected that, on account of the enormous size of its patrimonial property, the State cannot be allowed to work it, we submit that the same objection strikes at the large Companies owning and working whole regions. And how could any distinction be made, under the Berlin Act, between a large and a small property?

Neither can it be reasonably supposed that if the State held aloof from the management of the land, the trade in produce of the soil would be more prosperous. Had the State recognised the right of the first comer, the latter could have secured without trouble produce which he now has to buy. But the very appropriation of the produce would have been an act inimical to commerce, which exists only when an exchange of produce follows. And it would still have to be shown that the Berlin Act had decided against the universally-admitted right of the State to all unowned property, and had aimed, not at free and equal trade between individuals, but wholly and solely, and regardless of consequences, at affording them the maximum chances of profit.

It is true that the vesting of unclaimed property in the State—including concessions of lands which involve rights of disposal and of use—may possibly not remain without influence on the sphere of commerce. But that does not warrant a denial of the legitimacy of such sovereign acts. Here again, a certain *modus ordinandi* in the domain of ownership and commercial freedom may be sought,

but without confounding the respective rights, and without allowing individuals to dictate to the State in matters affecting the management of the land of its colonies.

8. — STATE COMMERCE AND PRIVATE TRADE.

Can the carrying on by the State of any business open to private initiative be considered as incompatible with commercial freedom? And can the State reserve to itself the exclusive right to any branch of commerce?

Let us first consider whether the State is entitled to carry on any business open to private enterprise. Whether the State has the rights of a landowner in its own domains, may be discussed. But the moment that question is settled in the affirmative—which is the only practical solution—the right of the State to carry on any form of business cannot be challenged. It can gather and sell the produce of which it has become the legitimate owner. Naturally, it cannot be forced to consume or to store up the whole of its own produce. As regards the buying and selling of produce belonging to others, to natives for example, the question may be asked whether the State can, under the Berlin Act, carry on such trade.

To elucidate this point, let us define the position of the Sovereign with regard to his territory. The situation under consideration is very different from that of Foreign States. These have no sovereign rights over the territory and they only appear in the Berlin Act as protectors of the interests of their respective subjects, and to secure to the latter certain advantages outside the ordinary rules of foreign commerce. The Powers are not in the habit of

claiming any right of trading, on their own behalf, in States other than their own. And if they did advance such a claim, they would only be entitled to the same treatment as ordinary individuals.

The legal position of a Government in its own territory, the material foundation of its sovereignty, is an altogether different matter. It is neither a foreigner nor an individual; it has certain duties to fulfil, according to its appreciation of public needs, and, for it, sovereignty means freedom. Legally, there is nothing to prevent a State from doing whatever may be deemed beneficial to the general interest. It may be either producer or manufacturer, may sell its produce or manufactures, and may even buy and sell certain articles which it neither produces nor manufactures.

The fact that a State acts in this business capacity in no way destroys the liberty of individuals to carry on similar business, nor does it affect the respective equality of subjects of different nations. The Berlin Act does not and could not forbid such operations, without injuring the colonial interests, which it was its main object to promote.

Transactions of a material character, in fact, are very often the only means, in uncivilized countries, of establishing relations with the natives, and sometimes of opening a necessary market or of keeping up a legitimate traffic. In many cases a refusal to enter into commercial relations might lead to bad feeling. To distribute the desired goods gratuitously would be ruining all future transactions. State trade, then, may be not only permissible, but inevitable, and even profitable to subsequent commercial relations between individuals. Those

who look upon trade as the most powerful and effective weapon a State can employ in the civilization of a new territory, will readily admit that, in trading to a certain extent, the Government is not going beyond its fundamental mission of civilization.

In any case the State must retain a free hand in the regulation of such trade. The only thing which might be criticised would be, not the carrying on of trade, but any positively unfair competition. It is idle to say that the State, because of its practical immunity from taxation, must always compete unfairly. The State has to meet demands from which the private trader is exempt. Certain duties have to be performed by the State, while the individual generally rids himself of any responsibility he may have in connexion with those duties by the payment of a relatively modest contribution. But it is against the weight of evidence to contend that the State cannot carry on a colonial trade, and at the same time leave a large field and a free opportunity for a plentiful harvest of profits to private activity, without favouring any one of the competitors.

Unfair competition with private enterprise is quite possible, but with that question we need not deal here. We know, however, of no case in which such a charge has been legitimately made against a State.

As for the Congo State, it has never indulged in speculative trade as its main object of business; it has merely sought a market for its own produce.

A more delicate question is that affecting the monopoly of certain branches of trade by the State. As a matter of fact, the State monopoly of matches, cigars, playing cards,

and so forth, was never held as a breach of the principle of commercial freedom. And the Berlin Act supports this view. The only thing really forbidden in the Act is the concession of trade monopolies, which is prohibited in Article 5. But the working of certain monopolies by the State is an entirely different matter; it may be practically but a form of taxation. Arguing from this point of view, and from the very wording of the Act, one might submit that it is rather a question of discretion and moderation for the State, than one of absolute prohibition.

We refrain, however, from passing any opinion on that point.

9. — RIGHTS OF THE NATIVES.

In order to combat the rights which we recognise as belonging to the State, the acquired rights of the natives have been brought to the front. The confusion of ideas and of things has been so great that it may not be unnecessary for us to examine the matter.

The Conference dealt with acquired rights in two very different circumstances. In the first instance, it examined the line of conduct to be observed in relations with independent native sovereignties. The question then was one of acquired rights as between rulers and their subjects. Such rights had to be recognised, as far as evidence supported them, especially in the case of the Sultan of Zanzibar. With regard to other sovereignties, about which the Conference had no precise data, the French Chief Plenipotentiary thought that the Conference need not consider them, except in order to warn traders against

the delusion that commercial liberty was safe in countries as yet untouched by the influences of civilization. At the suggestion of several members of the Conference, and especially of Mr. Kasson, the United States Chief Plenipotentiary, declarations were made with a view to respecting native sovereign rights. But when Mr. Kasson formally proposed to sanction the respect of such rights by making the consent of the native rulers concerned a condition to the occupation of their territory with rights of sovereignty, the President of the Conference was one of the first to declare that such a proposal « touched on delicate questions upon which the Conference could not express an opinion. » « Modern international law, » Mr. Kasson had stated in the sitting of January 31, 1885, « closely follows a line which leads to the recognition of the right of native tribes to dispose freely of themselves and of their hereditary territory. In conformity with this principle, my Government would gladly adhere to a more extended rule, to be based on a principle which should aim at the voluntary consent of the natives whose country is taken possession of, in all cases where they had not provoked the aggression. » This proposition, involving the consent of the natives to the annexation of their territory, fell through.

Whatever opinion may be held upon this principle, and whatever be the light in which the Conference may have regarded the same, it only offers, from our point of view, an historical interest. Time, frontier arrangements between the Powers, the cession and recognition of sovereignty by native Chiefs, have definitely settled the matter.

The question of acquired rights was also considered by

the Conference when examining the conditions of future effective occupations on the African Coast. One of the conditions which the Conference required was the establishment of a force sufficient to maintain those rights. It is a question for the Governments, not of recognising the sovereignty of States, hitherto looked upon as independent—which would practically hinder any occupation whatsoever—but, on the contrary, of making their paramount authority felt in the occupied territories, by protecting such acquired rights as are generally looked after by the Government, *e. g.* private business rights.

This new provision has been tentatively interpreted as a special protection for native rights in the Congo basin. But it seems evident that the clause in the Berlin Act dealing with this subject in a positive manner is not Article 34, which only refers to future occupations of the African Coast, but Articles 6 and 9, concerning the protection of the natives. But the engagement contained in these articles, which excludes any interference by any of the Powers in the dominions of another, provides for the preservation of the native races, the improvement of their moral and material conditions of existence, the suppression of slavery and especially of the slave-trade as defined in Article 9. On comparing these provisions with those concerning non-natives, the line of demarcation between them is seen to be clear and well-defined.

Even if this were not the case, it would still be easy to show that the rights which we have claimed for the State can be reconciled with the recognition of duly acquired native rights.

The inherent prerogatives of the public authority in no

way clash with the rights of the natives in the soil, which may be quite different from the rights of property in civilized countries. The same remark applies to local customs, and to the trade carried on by the natives in produce belonging to themselves. The legislation of the Congo Free State meets in this fashion all the legal and reasonable demands of such cases.

With respect to trade in goods improperly taken away from the State or from individuals, it is easy to understand that it is no more legal for natives than for non-natives. The property laws of the Congo are the same as those of other countries. Nobody may gather harvests on State or private lands without the consent of the landlord. Any such attempts may give rise, in the Congo as anywhere else, to two sets of legal proceedings : one on public grounds for breach of the criminal law, another on civil grounds for the payment of any damage sustained.

We have just pointed out that trade in irregularly-acquired goods is rightly forbidden both to natives and non-natives. The ruling Powers in the Congo are sometimes reproached for being too severe towards subjects and foreigners who set the laws of the country at defiance. We know of no State which under the circumstances would act differently for the simple reason that any other line of action would mean anarchy.

It would be equally unreasonable to complain of the contributions towards the public Exchequer, which the State levies on the natives, in the form of taxes in kind. Such action is justified both in itself and by the absence of any prohibition on that score in the Berlin Act. The importance attached to this latter point by certain contro-

versialists induces us to consider the subject at some length.

10. — TAXES IN KIND.

In the Congo, as in all other countries, the people are bound to participate in the expenses of government. The form of this contribution necessarily varies according to social conditions and at present the contribution which it is possible to collect from the natives of the Congo takes the form of produce having a market value in Europe.

This form of taxation is by no means irregular and an equivalent contribution, in the form of productive labour, is not less justifiable. The legitimacy of this double form of taxation is often emphatically vindicated as an integral part of a comprehensive system of imposts. Thus for example, M. de Parieu in his *Traité des impôts*, gives us the following definition : « A tax levied by the State on the wealth or labour of the subjects, to meet public expenses (1). » If in the first place the taxpayer is called upon to make this sacrifice in the form of a voluntary and remunerated contribution, and only in the event of his refusing to do so is it enforced and even then not without payment and under conditions especially suitable to the social organization of the country, there is surely no element of injustice or unreasonableness in such a transaction.

At first sight, the idea of simultaneous taxation and

(1) *Traité des impôts*, I, p. 4.

remuneration may seem somewhat odd to those who are only conversant with the ordinary methods of civilized government at home. Our own taxpayers never receive any *quid pro quo* in kind for the sacrifices demanded of them, their benefit being confined to a proper enjoyment of the various public services. But if the question be looked at from a practical point of view, and with due regard to the circumstances of the case, it will readily be admitted that the principle of remuneration, adapted to certain forms of impost, may be both useful and productive.

This proceeding, applied to native labour, may in certain cases be not only the most practical means of obtaining a revenue, but it may, under a wise and far-sighted Government, become a powerful factor in training the natives to regular work and in helping their moral and material regeneration.

Experience shows that the native is not naturally inclined to work. The smallness of his needs, the ease with which he can satisfy them, the contempt in which he usually holds labour, the natural tendency to shirk anything which, in however small a degree, is painful, these things combine to keep him in a state of idleness and inactivity. To urge him on, it is necessary to apply each of the generating principles of movement : impulsion and attraction. These means are resorted to by the Government when it exacts from the native a tax in the form of impressment and afterwards pays him for the work he has done.

Hence, the right of calling upon the people to share the burden of the State as guardian of public order, and the duty of initiating the natives in the universal law of labour incumbent on every human being, constitute grounds

for the justification of compulsory native labour under the control of the Government.

The system of compulsory labour has been criticised in the case of several newly-developed countries, but it must be remembered that the system remains in force in modern States, even in an advanced stage of civilization.

With regard to the distribution of the burden of this form of taxation, it is held by some that taxation should be strictly personal, and should not be exacted from a whole tribe by a mere call upon its Chiefs. This argument would, if logically pursued, lead to a deadlock. Examples of collective taxation abound, especially in British colonies. There are countries where the inhabitants employ but few dutiable articles, drink no spirits, require no licenses, and never use stamps. And yet, when the natives form ninety-nine hundredths of the population, and when they occasion a large part of the expenses of government, law and police, it is only right that they should contribute, and in no small measure, to defray the expenses incurred, as those expenses certainly are incurred to a certain extent, for their protection and preservation. Sir A. H. Gordon, Governor of the Fiji Islands, expressed himself to that effect in a letter written by him on February 16, 1876 to the Earl of Carnarvon, then Colonial Secretary. He added that, after a serious consideration of the subject, and having taken the opinion of men as conversant with colonial affairs as Sir Hercules Robinson and Earl Grey, he had come to the conclusion that, under such circumstances, it was necessary to levy a tax on the district or village rather than on individuals, and that a tax of produce could be easily raised, with the best possible

pecuniary results, and with the yet greater advantage of stimulating native industry and largely increasing the amount of trade in the Group (1).

It has been further sought to discountenance the partial « payment by results » of State tax-collectors. But it not infrequently happens in civilized countries that premiums are given according to the satisfactory nature of the work performed. Steps can, of course, be taken to prevent any exactions; but the absolute suppression of the « payment by results » system does not appear to be justified. However, the system has its faults and the Congo State, which had only temporary recourse to it, has, we venture to think, done well to suppress it, as it did several years ago.

It is urged that all compulsory labour is oppressive and outrageous upon natives. But we must not forget that, in our own countries, the use of constraint is considered not only as an occasionally necessary means of education, but as an indispensable way of ensuring compliance with a number of duties imposed by the Government.

Every humanitarian enterprise has its shortcomings, and this truth is perhaps more evident in Africa than elsewhere. Unfortunately, individual abuses are not confined to any special colony. Such abuses must be repressed. As for the Congo Free State, the official legal statistics show that the Government has not failed in this respect.

(1) See the remarkable *Rapport de M. le baron van Eetvelde au Roi-Souverain*, dated January 23, 1897. BULLETIN OFFICIEL DE L'ÉTAT INDÉPENDANT DU CONGO, 1897, p. 48.

In default of high humanitarian motives calculated to influence both authorities and individuals in this connexion, material and moral interests act as a powerful incentive. The duty of treating the natives moderately and humanely cannot be neglected with impunity. The oppressed or ill-treated black will not hesitate to run away, and work may thus be brought to a standstill.

Not only does it appear impossible to deny the right of the authorities to introduce compulsory labour, but it must be recognised that the State, in governing economic life in new countries, has altogether different duties from those exercised in older societies. The State has, in fact, to some extent, to substitute for economic apathy—only varied by homicidal strife—a social order founded on regular and remunerative labour.

The organization of labour in those countries is widely different from that in force at home. The researches and the published documents of the International Colonial Institute (1) on the question of colonial labour throw much light on this point. Everybody knows that, in tropical countries, the dislike of the natives to work is not only the greatest obstacle to their civilization, but also a formidable enemy of colonization. While the European may have the brain that conceives and directs, he cannot, in those countries, also have the hand which executes. There are grounds for hoping that malaria, the natural enemy of Europeans settlers, will not for ever resist the efforts of science to find its antidote. But the climate

(1) Bibliothèque coloniale internationale, 1^{re} série. *La main-d'œuvre aux colonies*. Documents officiels. 3 vol. Brussels, 1895-1898.

alone still remains sufficiently depressing to limit the European sphere of action in tropical countries. The native-labour problem, then, brings into better relief the necessity for harmonising the industrial efforts of Europeans with the efforts for preserving and improving the races which are able to aid European enterprise. The employment of foreign labour more or less capable of doing the required work—and such a course is occasionally necessary (1)—is but a precarious resource, bristling with dangers and difficulties. Native labour is generally preferable. It was in view of these facts that the International Colonial Congress, held in Paris in 1900, passed the following resolution :

« Everything calculated to foster the recruiting of native labour in the colonies should be encouraged. The employment of native labour should be preferred, unless absolutely unobtainable, rather than the introduction of foreign elements, even when such employment necessitates certain measures which, in view of the social condition of the natives, would appear in Europe as an interference with individual liberty (2). »

With respect to the Congo country, and especially the French Congo, men of undeniable experience, like Mgr. Augouard, who have lived a quarter of a century in Africa, and have devoted their lives to the welfare of

(1) See our *Projet de règlement en vue de l'utilisation de la main-d'œuvre exotique dans les colonies*, presented to, discussed, and adopted by the Institute of International Law. Bibliothèque coloniale internationale. *Compte rendu de la session tenue à Bruxelles, 1899*.

(2) *Congrès international colonial*. Rapports, mémoires et procès-verbaux des séances. Paris, 1901, p. 842.

the natives, do not hesitate to say that compulsory labour is the only present means of solving the problem of colonial industry (1). In various countries, including Germany, men of no less experience, like major Wissmann, while combating the principle of forced labour, consider that the best means of making the natives work are, on the one hand, the tax of labour and, on the other, military service. As for the tax of labour, the celebrated African explorer says :—« The authorities should, as often as possible, induce the natives to pay the impost by means of work rather than in money. I think it would not be a bad idea if the colonial Government were to refuse produce tendered in payment of taxes, and exacted payment in labour (2). »

We thus see that authorities on colonial matters differ in opinion. Without taking sides in the controversy, let us merely note that the point at issue is simply one of internal colonial policy, which may not perhaps admit of more than one solution. Each State must solve the problem according to its own special circumstances. In any case, some sort of regulation of labour by the authorities seems necessary, if abuses are to be avoided.

11.—IMPRESSMENT OF LABOUR AND THE SLAVERY QUESTION.

The question of forced labour, even when it is imposed by way of taxation, is sometimes confused with the question of slavery. Such confusion arises, no doubt, from a

(1) See *Belgique coloniale*, March 30, 1902.

(2) *Deutsche Kolonialzeitung*, January 16, 1902.

misapprehension of each question. A few words will suffice to set the matter in its true light.

We do not hesitate to aver that to confound slavery with the performance of certain obligatory services rendered to the State would be altogether impossible if these things were rightly considered. Slavery is the very negation of individuality, of the essential attribute of humanity, of the quality of being able to possess and to acquire rights. It makes of a man the chattel of his master. The enforcement of a certain amount of remunerated labour, limited in quantity and duration, exacted as a contribution to public expenditure, performed under the superintendence of Government, and while the rights of the individual in their essential elements are not called in question, is different from slavery. Far from destroying individuality, it may be looked upon as a first attempt at the redemption of the native from the vicissitudes of his miserable existence.

If compulsory personal impressment were considered as characteristic of slavery, then we should have to admit that slavery exists in our own civilized communities. Compulsory military service, and other forms of obligatory impressment would then become mere forms of slavery. It is a case of « he who proves too much proves nothing. »

Again, it would be an insult to common sense, and contrary to all experience, to attempt to apply to the industrial education of the natives the same perfected rules which have only come into force in civilized communities after centuries of slow development. Armchair politicians fancy they can clear up all these difficulties in half an hour, and that savage peoples can be transformed, without

any intermediate stages, into highly civilized races. The danger lies in flying to extremes : either by considering natives as brutes, and denying them the rights of men, or by treating them as fully developed adults of the human race, as has been done by certain colonies, and by giving them political and civil rights out of harmony with their social state and which render their civilization impossible. What is wanted, if the natives are to be helped, is a paternal and educating administration, which, while it never invites these poor savages to exercise functions which, from the very nature of things, they cannot duly perform, endeavours to obtain from them something which is morally possible, adapting to their social state, laws and methods of government, in order thereby gradually to develop the work of their regeneration. That is the only rational method ; and it has stood the test of experience. Was the system of complete civil liberty, as now enjoyed by European communities, built up in an hour ? Was it not rather the work of centuries ?

As far as we know we have never been suspected of any tenderness for slavery. We think with the secretary of the Berlin Conference that « this mischievous institution should disappear, » but it is impossible for us to consider that every form of taxation in kind is equivalent to servitude. And, if we must open our whole mind, we believe that far greater dangers threaten the native than the method of accustoming him to the habit of regular and remunerated labour: to which dangers those who have any care for his welfare should certainly never expose him. We allude to the peril of alcoholism and the importation of drink.

With regard to slavery itself in newly opened countries,

it will be worth noting that, in international acts, Governments have always made a distinction between the slave trade and the institution of slavery, and perhaps it will not be without interest also to set down the exact legal aspect of the question.

Referring to the undertaking, given by the Powers in the Berlin Act, to assist in the suppression of slavery, the secretary of the Conference said : « Every one knows—and Sir H. Stanley's evidence has only confirmed, as regards this question, the received opinion—how deep a root slavery has taken in the constitution of African custom. Assuredly this pernicious institution must disappear; that is an essential condition of any economic and political progress; but tact and a period of transition will be indispensable. It is sufficient to note the end in view; the colonial Governments must search for the means and adapt them to the circumstances of the times and surroundings (1). »

Domestic slavery in newly occupied countries is too deeply ingrained to be eradicated, all at once. To attempt to punish every slave-holder would only lead to useless bloodshed, and retard the hitherto successful work of the civilization of Africa. We must bear in mind the old but true adage, that the best laws for a country are not the most perfect, but those best suited to it, and best calculated to advance its interests. « Even when laws are intended to change customs, » as Matter truly observes, « they must be in some way related to those customs, if they are not to be resented (2). »

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 90.

(2) *De l'influence des mœurs sur les lois et des lois sur les mœurs*, p. 122.

While Government may be unable to suppress certain forms of slavery, it must at the same time give no official sanction to it. There are institutions which the Government cannot punish, and yet which it need not officially recognise; and slavery is one of them. This lack of recognition, without going to the extreme in its consequences, may have important practical results.

When a slave-holder applies to the State to defend his right of man-ownership, the State may decline to take any action in the matter, and again, when the State is called upon to give its support either to the slave-holder or to the slave, it may choose to protect the liberty of the latter.

The undertakings given by the Powers in respect of domestic slavery—independently of the general dispositions for the suppression of slavery, to be carried out as each State may think fit—do not go beyond the latter point. Clause 7 of the Brussels General Act, referring to the protection to be afforded to fugitive slaves, says : « Any fugitive slave claiming on the Continent the protection of a Signatory Power shall obtain it, and shall be received in the camps and stations officially established by such Power, or on board the vessels of such Power plying on the lakes and rivers. » It should be noted that, on grounds of public order, the right of asylum is not claimed *de plano* by the Conference for private stations and boats : these can only exercise that right with the previous sanction of the Government. The Conference, moreover, never intended to forbid or to order the local authorities to indemnify owners of fugitive slaves : the officials have full discretion in such matters.

Similar regulations were made with respect to the right

of maritime asylum. It is true that, according to the terms of clause 28 of the Brussels General Act, « any slave who has taken refuge on board a ship of war bearing the flag of one of the Signatory Powers shall be immediately and definitely liberated; such liberation, however, shall not operate to withdraw him from the competent jurisdiction if he have been guilty of any crime or offence against the general law. » It is true also that, according to clause 29, « every slave detained against his will on board a native vessel shall have the right to claim his liberty. » But the question of the right of asylum on European or American merchant vessels was formally reserved by the Conference, and still remains an open one.

The duties of the Powers in respect to the slave-trade are more far-reaching.

Slave-trading constitutes a crime which not only have all the Powers mutually undertaken to suppress in their respective territories, but general regulations have been drawn up in order to secure the universal and effectual suppression of the traffic. At the same time, the general and concerted arrangements do not allow one Government to interfere with the independence of another State, in order to punish some real or supposed act of slave-dealing (1).

The Powers refrained from declaring slave-trading to be « an act of piracy. » At various times and in divers ways, the British Government has endeavoured to

(1) For particulars of the agreement arrived at, see the Report to the Conference on articles 1 and 3.

induce the Powers to recognise the slave traffic as piracy. For instance, just before the meeting of the Brussels Conference, England signed a treaty with Italy, by virtue of which each of the Signatory Powers undertook to treat slave-trading as an act of piracy. The object of that declaration was to justify indisputably the concession to each of the parties of broad reciprocal rights in the prosecution and punishment of slave-dealers.

However praiseworthy this object may be, it will be seen that the proposal to make slave-trading an act of piracy is open to just criticism.

The two crimes cannot be treated on common ground. The essential differences between them are so great that they cannot be assimilated. « Such an assimilation is not in the nature of things, » says Bluntschli, « and the meaning of piracy cannot be arbitrarily extended in that way (1). » Thus, a solution of the slave-trade difficulty which is generally applicable will have to be sought elsewhere than in the direction indicated by England. The suggestion of Great Britain, moreover, seems to apply too exclusively to the maritime phase of the question.

We in no way pretend that international action in regard to the slave-trade is inadmissible. But we consider that, if a satisfactory solution is to be arrived at, slave-trading should not be termed « an act of piracy. » The point is, does slave-dealing—apart from any comparison with piracy—in any way constitute *a crime against the law of nations*? The proposition being thus re-stated, the solution will not be difficult to find, especially if care be taken

(1) *Droit international codifié*, 331, note.

to avoid any exaggeration, and only to bear in mind the actual consequences of such a declaration.

From this new point of view, the slave-trade is distinguished by the following characteristics : It is as was pointed out in the report of the Committee to the Berlin Conference an « atrocious crime of high treason against humanity » and at the same time « the negation of all law and social order. » The slave-trader is rightly looked upon as an enemy of mankind, *hostis generis humani*, and fairly deserves the hatred in which he is held. The extent and evil of his operations justify the use of the strongest language to characterize his crime.

The obstacle to a technical definition of punishable slave-trading—besides the false point of view from which the slave-trade was regarded in international law—has been the fear that it might involve consequences affecting the independence of States. As a matter of fact, if slave-trading be made an offence against the law of nations, it is not thereby assimilated to piracy, for the simple reason that piracy is neither the typical nor the only form of offence against the law of nations, and that different crimes, although equally « offences against the law of nations, » call for different treatment, if they are to be suppressed. To call slave-trading a crime against the law of nations would not involve the admission of the right of one State *to infringe on the independence of another State* in order to punish real or supposed slave-trade offences.

Apart from the International Acts of Berlin and Brussels, certain States have made reciprocal arrangements involving various obligations. The treaty, already alluded to, between England and Italy is one of

these. The public international law of the Congo Free State, in this respect, consists exclusively of clauses 6 and 9 of the Berlin Conference, and of the General Act of the Brussels Conference. As for the legislation of the State, laws relative to the uniform suppression of the slave-trade were adopted by the decree of July 1, 1891. And it is worthy of note that cases arising out of slave-trading in the Congo are tried by the State Courts, and never by native tribunals.

The law recognises no other obligations between native masters and servants than those arising out of a contract freely entered into, and in conformity with modern civil law. The State, for some time past, has put into force special regulations affecting contracts of service between natives and non-natives : these regulations are set forth in the decree of November 8, 1888. Any arbitrary interference with individual liberty, properly so-called, is energetically repressed by the Penal Code. In these circumstances, we venture to think that the present legislation of the Congo Free State, regarding the essential guarantees of individual liberty, is on a level with the best and latest colonial codes.

The consideration of this subject, so often misunderstood and made a cause of reproach against States which are loyally doing their duty, may well be terminated by a few quotations. The first is from that « Apostle of the blacks, » Cardinal Lavigerie, the very last man to be suspected of favouring slavery. He says :—

« To attempt to abolish slavery in Africa at one blow, by force—since force is the only means to that end—is to attempt the impossible. All the armies, all the wealth of Europe would

not suffice to attain such an object. Moreover, the social condition of the African native being founded on slavery, which has existed for centuries, everything would be thrown into a state of chaos, if we were to abolish all at once an institution, doubtless lamentable, but still preferable to chaos (1). »

The second quotation is taken from the Report of Sir Frederick Lugard, Governor General of Northern Nigeria, dated March 18, 1902. We reproduce it, not for the sake of criticism, but to show that, even in the question of the suppression of the slave-trade, Governments animated by the best intentions—even the Government which has the unquestionable honour of having performed the greatest services for the abolition of slavery and of slave-trading—are sometimes unable to realise all the good they wanted to accomplish. The following is the passage in question :—

« There is, probably, no part of the « Dark Continent » in which the worst forms of slave-raiding still exist to so terrible an extent, and are prosecuted on so large and systematic a scale as in the British Protectorate of Northern Nigeria. Each year, as the grass dries up, armies take the field to collect slaves. Nor are they even provident of their hunting-grounds, for those who are useless as slaves are killed in large numbers, the villages burnt, and the fugitives left to starve in the bush. »

We may be sure that, if she has not already done so, England will soon put a stop to these infamous practices in her African Protectorate.

The accounts of the horrible and persistent ravages of the slave-bands in the region of the Tanganika are well

(1) Letter to H. M. King Leopold II, dated November 8, 1889. *Documents sur la fondation de l'œuvre antiesclavagiste*. Paris, 1889.

known. To-day things are different on the banks of the great lake, thanks to the determined war made on the slave-traders. A short time ago, in a lecture given before the London Geographical Society, and reproduced in the *Geographical Journal*, Sir H. H. Johnston, British High Commissioner for Uganda, paid a signal tribute to the Belgians at present established in that country. He said :—

« I might mention that I was accorded the kindest hospitality by the Belgian officials, and given every possible facility for visiting this portion of the Congo Free State. I found the natives every where on friendly terms with the Belgian authorities, and the excellent roads and well-built stations, together with abundant supplies of the comforts and necessities of existence from Antwerp merchants, introduced a strange element of civilization into these otherwise trackless wilds. Sir Henry Stanley would indeed be amazed at the change which has taken place in parts of the forest which some twelve years ago were to him and his expedition more remote from civilization than the North Pole 4).»

And thus, as Government establishments are developed in Central Africa, and as other regenerating influences take root under their ægis, so the slave-trade is for ever extirpated in the newly-civilized regions.

III.

The Berlin Act and Navigation.

In the Berlin Act we find two classes of regulations affecting trade. One class, affirming the principle of commercial freedom, remains in force. The other, which

(1) *Geographical Journal*, 1902, January, p. 23-24. See also *The Uganda Protectorate*, I, p. 197 and *seq.*

includes the suppression of import duties, has not survived a comparatively brief period of trial. We also find in the Conference transactions relating to the great African rivers, two classes of regulations. One of these has stood the test of time; the other, of an optional character, has remained sterile because from the first it was impracticable, and later on had no *raison d'être*.

1. — GREAT WATER-COURSES. — INTERNATIONAL RIVERS.

Man pitches his tent preferably on the banks of rivers—those « walking roads » which carry burdens so lightly. It is by following them that he has most often discovered new lands. For centuries these natural aids to human activity have been the only practical ways open to any considerable trade. And even to-day they successfully hold their own against various means of communication by land, on account of their unrivalled cheapness.

Some of these great water-courses are confined to a single country. Others have so to speak an international scope for they traverse or separate the domains of several nations. The first-named constitute the fluvial territory of the State through which they flow. The second also belong to the public domain of the countries which they water. But their use may give rise to certain difficulties, and call for certain arrangements between the nations interested.

How to guarantee to all flags the use, for commercial purposes, of the navigable water-ways which flow through,

or border on, several States, whilst paying at the same time due respect to the legitimate sovereign rights of those States. Such is the problem to be solved by modern international fluvial law.

Considered in its origin, this law presents itself to us as a reaction against the once prevalent custom of parceling out international water ways, to the no small detriment of their natural utilisation, and against superannuated forms of toll-heritage of the feudal system. If we consider it in its development we shall see that it traversed two notable stages :— The first, when all riparian dwellers obtained the right to avail themselves of the advantages of their water way throughout its navigable length; the second, when this privilege was extended to subjects of all nations.

It is sometimes sought to justify this concession by the argument that liberty of navigation on rivers is only an extension of liberty of navigation on the high seas. But, whereas the high seas belong to nobody, the river forms an integral part of the territory through which it flows, and thus enters into the public domain of the State, or States, which own that territory. The fact is, as it seems to us, the increasing community of interests and the larger views held as to commercial relations exercised influence in this matter as in so many others. Thus were the powers induced to reconcile their sovereign rights with universal participation of the advantage attached to divers great water ways, and to promulgate a liberal and stable code anent fluvial navigation. Without waiting to consider the events which led up to this result, it will be well to note that clause 5 of the Treaty of Paris of March 30,

1814, forms an epoch in the history of those events. It runs as follows :

« Navigation on the Rhine, from the point where it becomes navigable to the sea, and vice-versa, shall henceforth be free, in the sense that it shall be prohibited to nobody. The next Congress shall consider the question of dues to be levied by States bordering on the river with a view to the equalization and general encouragement of trade. The next Congress shall likewise consider and decide in what manner, with a view of facilitating communication between nations, and thus mutually rendering them more friendly, the foregoing provision may be extended to other rivers which, in their navigable portion, separate, or flow through, different States. »

The Congress of Vienna 1815 continued the work of the Congress of Paris, organizing a system of free river navigation on the Rhine and its tributaries as well as on the Scheldt.

Various measures were devised for the protection and regulation of the general freedom of navigation on these important water ways, the idea being to equalize the dues payable by all who used them, and to afford equal protection to the commerce of all nations (art. 109 and 110). At the same time, the legitimate sovereign rights of the various riparian States were to a large extent safeguarded. These States were to draw up, on lines pre-ordained by the Congress, regulations for the proper carrying on of the various services of navigation, and each Government was free to collect the customs duties, payable by all vessels discharging cargoes in its territory, as distinct from navigation dues (art. 115). They also had to maintain the towing-paths and to keep the river in a navigable condition (art. 113).

If we turn from Europe to the New World, we find that the principles of the Congress of Vienna have also been applied in Parana and Uruguay, by virtue of similar agreements concluded in 1853 between France, Great Britain and the United States on the one hand, and the Argentine Republic on the other. A new departure, however, was made in these latter cases, in that the regulations affecting navigation were made applicable in time of war as well as in time of peace.

In 1856, the Powers assembled at Paris decided that the principles of the Treaty of Vienna should be also applied to the Danube and its delta. At the same time, the Congress, finding that the States bordering on the Danube were not able to dredge the mouths of the river, appointed a Committee, known as the European Commission, to go into the question of clearing the delta, and to draw up a tariff of dues treating vessels of all flags on the same footing. A Committee from the riparian States was instructed to draw up regulations for navigation, and to apply the provisions of the Treaty of Vienna to the Danube.

We need not dwell upon the subsequent modifications made in these Commissions. Suffice it to remark that the appointment of a European Commission was a departure from, and not an application of the principles of the Treaty of Vienna, inasmuch as independent third parties, who controlled no land on the river banks, were called upon to assist in managing its navigation. And thus the new administration was looked upon not as a normal, but rather as an exceptional development, due to special circumstances—namely the absolute necessity of

dredging the Danube delta on the one hand, and on the other, the impossibility of obtaining from the riparian States the necessary sacrifices for that purpose. In these circumstances, it seems difficult to agree with the secretary of the Berlin Conference in considering the measures adopted for the Danube as a « return to the clauses of the Treaty of Vienna, in their original and broad sense. »

Such, then, was the state of the law respecting international water courses, when the Niger and Congo Navigation Acts were drawn up.

2. — FREEDOM OF NAVIGATION ACCORDING TO THE BERLIN ACT.

The Congo Navigation Act lays down the following principles :—

General and full liberty, that is to say, freedom for every nation and every merchant vessel, loaded or in ballast, carrying either passengers or cargo, between the sea and the interior river-ports of the Congo, and vice-versa, as well as for large and small lighters, barges and small craft on this river.

Similar liberty, allowing no difference of treatment between subjects and foreigners, or between subjects of the riparian States and those of States not bordering on the river, nor of any exclusive privilege or monopoly of navigation, either to companies or corporations or to individuals.

These principles are recognised by the Powers as a part of international law.

The freedom of navigation of the Congo is unencumbered

with any fetters or dues not provided for in the Navigation Act. It is a freedom which knows nothing of antiquated dues and vexatious regulations ; it is unburdened by transit duties, whatever be the origin or destination of the vessels and cargoes alike. No sea or river-port tolls are levied on account of navigation, and no tax is collected in respect of cargo on board.

The Navigation Act recognises only three kinds of taxes or dues, which all tend to compensate services rendered to navigation. They are :

1. Harbour dues, for certain local establishments, such as wharves, warehouses, etc., if actually used.

The tariff of such dues shall be based upon the cost of constructing and maintaining the said local establishments ; and it will be applied without regard to nationality of vessels or their cargoes ;

2. Pilot dues for those stretches of the river where it may be necessary to establish properly-qualified pilots.

The tariff for these dues shall be fixed and calculated in proportion to the service rendered ;

3. Charges raised to cover special and administrative expenses incurred in the general interest of navigation, including light-house, beacon, and buoy dues.

The last mentioned dues shall be based on the tonnage of vessels as shown by the ship's papers, and in accordance with the rules adopted on the Lower Danube.

The tariffs by which the various dues and taxes enumerated in the three preceding paragraphs are to be levied, shall not permit any differential treatment, and shall be officially published at each port.

Moreover, the liberty of navigation on the Congo as

tempered by the justly compensatory taxes mentioned above, is extended in two directions :

1° The tributaries of the Congo are in all respects subject to the same rules as the river into which they flow ;

2° The same rules apply to the streams and rivers as well as to the lakes and canals in the territories comprised in the eastern and western zones of extension of the Congo basin ; provided always that, for the eastern zone, the consent of the States controlling those districts be obtained, and subject to the stipulation, made in respect to the western zone by the French Government, that the regulations applicable to the rivers between Sette-Cama and Logé should only affect free navigation by merchant vessels, unless a different arrangement were arrived at later.

An understanding, as we know, was arrived at, but it only applied to water courses which were accessible from outside, and were really important to international navigation.

By clause 25 of the General Act, the provisions of the Navigation Act are destined to remain in force in time of war.

When, later on, we deal with the question of railway transport, we shall explain the supplemental character of this means of communication where the Congo is not navigable.

3. — THE PROSPECT OF AN INTERNATIONAL NAVIGATION COMMISSION.

Portugal's attempt at establishing a Joint Commission, representing two Powers, to regulate navigation on the Congo, although unsuccessful, led to the proposal for of an International Commission. Great Britain, while

not approving of the appointment of a similar Commission for the Niger, looked favourably on a like proposal when it related to the Congo. Germany and France considered the latter a decided improvement on the Anglo-Portuguese Commission. And thus was the question of an International Commission brought before the Berlin Conference.

The precedent created by the Danube Commission was approved by several Plenipotentiaries, although there was some difference of opinion as to the analogy of the two cases. The uncertainties surrounding the questions in regard to the territories of the Congo estuary called for very special consideration. As a matter of fact the appointment of this special body, in many respects unique, was provided for in the original Navigation Act, as a contingency, and, in the words of the proposal, « subject to any subsequent arrangements between the Governments who have signed this Declaration and such Powers as shall exercise rights of sovereignty in the territories in question. » The discussion at the Conference bore especially on the organization and duties of the new body.

At the same time, its unusual character was not lost sight of. The appointment of the Commission could not be justified as a mere application of the Vienna regulations; on the contrary, it was seen that the Commission rather departed from those rules. The preamble of the Navigation Act was therefore amended with a view of preventing any misapprehension; for it seemed very clear that the principles of international river rights were being transgressed rather than obeyed.

Events served to show the precarious and impracticable nature of such a body as the International Navigation

Commission, which, moreover, was only optional for the Powers interested in the Berlin Act.

Even before the close of the Conference, the Commission was stultified in respect of one of its duties. The Conference, as we saw, had formally declined to grant to the International Commission any power to supervise the exercise of commercial freedom in districts under the authority of any one of the Powers; and this point is worth bearing in mind. But, on the other hand, the Conference had recognised the right of the Commission to act in the matter in regions uncontrolled by any of the Powers. Now, the various treaties recognising the new State and the territorial arrangements arrived at during the Conference, changed the aspect of the situation to the extent of completely relieving the Commission of any duties in the direction alluded to.

Apart from this, the principal duty of the Commission was to decide upon and carry out the work necessary to render the Congo navigable. The execution of the work on those portions of the river which were uncontrolled by any of the Powers was to be provided for by the Commission; and, in places governed by a sovereign Power, the Commission was instructed to arrange with that Power for the execution of the necessary work. Thus, not only were the powers of the Commission in this respect limited in those portions of the river that were subject to a sovereign Power, but the latter alone decided on and carried out the necessary works before any navigation commission could be appointed. That is to say, the most essential and important duty of the Commission was fulfilled by the riparian authority.

The same thing occurred in drawing up the regula-

tions and tariffs, which were intended to be immediately prepared by the Commission under the advice of the Powers, and which were to be revised at the expiration of a five years' trial. The Powers then foresaw that the time would doubtless come when, in the natural course of events, the need for an International Navigation Commission would cease.

It is unnecessary to point out at any length the difficulties which were bound to interfere with the work of a Commission which, being of an optional character, would not have proved altogether satisfactory to the local authorities. This the Powers clearly foresaw, and consequently made the local sovereignties responsible for carrying out the necessary work for rendering the Congo navigable, according to the exigencies of international commerce. It is for the discharge of this duty that the Commission was originally planned, and obviously the States could not take it upon themselves without thereby incurring a heavy burden, and moreover, they apparently had better uses for their money.

The reasons for distinguishing between the Niger and the Congo—reasons which existed at the time of the Berlin Conference—no longer exist. Referring to the Niger, Sir Edward Malet, British plenipotentiary, pointed out that : « The exploration of the river had been the work of the British Government, which on divers occasions, had furnished the necessary funds. » He stated that « the commerce owed its development almost exclusively to British enterprise. » And added that « the most important tribes, which for years had been accustomed to look upon the agents of England as their protectors and counsellors

had now, in consequence of their urgent and repeated appeals, been placed formally under the protectorate of Great Britain. » « Therefore, » he concluded, « a different application of the principle of the Congress of Vienna is imperative; the coast-line and lower course of the river are sufficiently under control for Her Majesty's Government to be able to regulate the navigation, while binding themselves to the principle of free navigation by a formal declaration. »

All these remarks are to-day even more applicable to the riparian peoples of the Congo, the difference in the « individual conditions of that river and the Niger, » cited with more or less reason in order to apply a differential treatment, having now ceased to exist.

IV.

The Berlin Act and Railways.

Freedom of railway traffic must not be confounded with freedom of navigation. One difference lies in this : the former admits of a concession of the monopoly of transport, while the latter precludes any such concession. Railway monopolies have nothing in common with commercial monopolies under the Berlin Act.

The idea of considering railways as continuations of water-courses or as junctions between water-courses was quite a new one, as was pointed out at the Berlin Conference. The Conference realized the necessity of providing for the logical consequences of such an idea, and therefore it drew up special regulations which are worthy of careful examination.

1. — LEGAL STATUS OF RAILWAYS, ACCORDING TO THE BERLIN ACT, AND ESPECIALLY OF RAILWAYS CONSTRUCTED TO SUPPLEMENT CONGO NAVIGATION.

The general legal standing of railways in the Congo, the essential rights of the authorities as to their construction, their concession, their running powers, their charges, their position as public highways, their administrative and judicial organisation, are the same as those of railways in other countries.

The Berlin Act, as regards railways destined to provide transport where the Congo and the Niger become unnavigable, made special provision, as to the former, in clauses 16 and 23 and, as to the latter, in sections 29 and 33—the only clauses which are concerned with railways—for certain, particulars in respect to the management of these important auxiliaries to traffic details of these communications. After declaring that these railways, as means of communication, are considered as auxiliaries of the rivers, the Act dwells on the legal consequences attaching to the introduction of this new idea, this conventional innovation in international relations. The consequences are as follows :

1. The obligation of opening the railways to the traffic of all nations (Art. 16, § 1.), and the inviolability at all times of the lines thus opened to the trade of all nations (Art. 25, § 1.).

2. The obligation to refrain from any excessive railway rates, that is rates, « not calculated on the cost of construction, maintenance and management, and on the

profits due to the promoters. » The Berlin Act merely states these general principles, its object being to give the bases of calculation rather than a detailed solution of the problem, since it does not draw up a schedule of rates with respect to the nature of goods or the scale of charges.

3. The obligation to observe, in fixing a tariff within these broad limits, « equality of treatment for the foreigners and the subjects of the respective territories. »

Thus must individuals, whether subjects or foreigners, be treated on a footing of equality as regards the tariff, and especially so when it is a question of commerce, which may be called the sphere of private activity *par excellence*.

Thus also, the power of the State to allow exclusive access to the railways, to impose extra or unfair charges, is minimized. The Berlin Act goes so far, but does not pass these limits. Beyond this, it does not affect the sovereign prerogatives of the State as regards its territory.

2. — THE RIGHTS OF THE STATE AS TO THE TARIFF. — SYSTEMS OF REDUCTION. — SPECIAL RATES.

According to the general right of Powers in regard to railways, the State can order their establishment, have them constructed, run them itself and fix their tariff. It can also, if deemed preferable, authorize a concessionaire to collect the charges on the contemplated line, on condition that he shall undertake the construction, and maintain the established tariff.

The Berlin Act respects these fundamental rights.

It offers no opposition to any arrangements the State may make with its concessionaire as regards the schedule of rates with respect to the nature of goods or the scale of the charges. It does not intrude upon the internal organization of the rates, except so far as it circumscribes them within the following limitations : 1) all are free to use the railways,—2) no distinction can be based on the nationality of individuals,—3) and no excessive rates are to be imposed.

Circumstances may render changes in the tariff advisable or even necessary. Hence the State may stipulate for a periodical revision of charges, and may also reserve to itself the right of exacting in certain cases reductions and modifications.

This was the course adopted by the Free State in relation to the Congo Railway in its initial estimates. It also reserved the right of repurchase. This latter reservation, however, it abandoned for a time by an Act dated November 12, 1901, which also stipulated in what manner its optional power of reducing rates was to be exercised. That power it exercised by imposing a comprehensive system of reduction, but without at the time committing itself to any declaration as to the specific classes of goods on which the rates were to be cut down. It does not concern third parties whether this power be exercised in one Act or in two, or whether the concessionaire be authorised by special agreement with the State or by general powers. The main consideration, from a legal point of view, is whether the procedure followed for the attainment of the reductions aimed at is in accordance with the Berlin Act. In the present case, the procedure certainly was in accordance with the Act.

Since the scheme is merely one of reductions, the talk about excessive rates is altogether out of place. On the other hand, the opening of the line to general traffic, and the equal treatment of foreigners and subjects have nothing to do in the case.

The latitude which the State allows itself is quite as justifiable from a practical point of view as from a legal one.

In practice it is impossible to lay down a hard and fast rule, for experience may show where certain tariffs are defective, and special circumstances may necessitate special arrangements.

From a legal point of view, nothing can be said against the State's reducing railway rates, inasmuch as it was invested with the right of primarily drawing up those rates.

By the same Act of November 12, 1901, the State enjoys certain special conditions of transport for carrying out works of public utility. That right is quite legitimate for the Government, and does not entitle private citizens to demand its application for their own purposes. The State could have enjoyed these advantages if it had itself built and worked the line. The mere fact of a concession by no means robs the State of all its rights in this respect. These advantages are justified, for the State has made real sacrifices in ceding a part of its territory and in abandoning the repurchase clauses. The advantages accruing to the State do not in any way interfere with the equal treatment of individuals stipulated for in Article 16, which says : « As regards the rate of these tolls, foreigners and the subjects of the respective territories shall be treated on a footing of perfect equality. »

No distinction is made on account of nationalities; the

only difference made rests on a service of public utility, regardless of nationality. Neither subjects nor foreigners can say that their civil or commercial liberties are endangered.

Certain authoritative interpretations of the Berlin Act confirm our view of the question. The German Government, for example, does not consider to be a breach of equality the exemption of all duties granted to a German railway concessionaire. Witness the following two clauses of the Imperial German decree, dated December 1, 1894, and relating to the railway in German East Africa (Usambara line).

« ART. 1. — The Imperial Government shall grant to no other contractor, either individual or corporation, the right of constructing or working a railway line joining the said localities or liable to compete with the line ceded by the present decree or any parts of the same.

» ART. 9. — The Imperial Government guarantees to the German East African Railway Company, subject to compliance with the prescribed formalities, an exemption from all duties on materials, engines, working tools and all other implements and articles which may be imported into German East Africa for the construction, repair, renewal and running of the railway. »

Although the use of the railway by foreign Governments is not provided for, it may be assumed that for reasons with which the Act is not concerned, a reciprocal spirit of good will and harmony will suffice to induce one Government to offer facilities of transport to another for the various State services. And if these advantages, in as much as they only regard relations between Governments, from a certain point of view, may not appear to be a breach of equality between citizens, it must, however, be conceded that, as a principle, States cannot in a foreign

territory be looked upon as public authorities—diplomatic and similar privileges always excepted. Every foreign State in this respect is legally on the same footing, the frontier of another country being the limit of its sovereignty. Within its own territory, the Government exercises quite another set of functions—since it is there neither a foreigner nor an individual—, has special duties of public utility to fulfil, and has sovereign rights recognised by the general law of nations. It is idle to affirm that foreign States may, in view of their own enterprises, be treated on the same footing as the home Government. Such a course would involve a confusion of foreign with national public utility, since every Government is as incompetent to appreciate the former as it is competent to judge of the latter. The rights of foreign Powers and those of the home Government are not in this respect comparable, inasmuch as they have altogether different objects.

In drawing up special tariffs with the concessionaire, it may be asked whether the State can base these rates on the actual working expenses, that is to say, with neither profit nor loss for the concessionaire. From an economic point of view, such a tariff is perfectly justifiable. Transport arrangements, *per se*, cannot be separated from the transactions to which they are related. These transactions must be considered in view of all the surrounding circumstances. In negotiating transport arrangements, which of themselves entail neither profit nor loss, a contractor is quite justified in calculating on present or probable advantages which may result from the whole of the operation; as for instance, the opening of new markets and the renunciation of the right of immediate repurchase of the

concern. To forbid him to do this would be to spoil his chances and deprive him in many cases of a part of the profit to which he is justly entitled.

Neither can it be argued, in the case of a railway like that of the Congo, that the contractor should not require rates higher than his actual expenses, in order to realize an immediate profit. Clause 16 states « that there shall be collected only such tolls as are calculated on the cost of construction, maintenance and management, and on the profits due to the contractors. » To argue in the sense indicated would be against the purport of the clause which aims at forbidding *excessive* rates, but which in no way interferes with a gradual realization of average profits by the contractors. To arbitrarily forbid the contractor to make such profits would be to fly in the face of clause 16, inasmuch as it refers to the profits *due* to the contractor. It is equally fallacious to imagine that because certain merchandise is carried for a time without profit, the rates for certain other merchandise must needs be increased. Any way, it would still have to be shown that the Berlin Act forbids a proper and reasonable equalization of contractors' charges. But the Berlin Act does not meddle with such arrangements ; it does not establish a detailed and proportional schedule of rates. It only says that such charges must not be excessive, that is to say, they must not exceed the total amount of the necessary expenses and due profits. The Act, moreover, fixes no maximum for such profits, neither does it limit any maximum rates on produce. Its intentions in this respect are shown by its refusal to define, even by means of a maximum scale, the extent of compensatory rates.

V.

General aspect of the economic work of the Berlin Conference. — Basis of the arrangement.

The work of the Berlin Conference in regard to the economic arrangements of the Congo basin has often been misunderstood. The States having possessions in that territory are primarily interested in correcting such misapprehension, but the result is not without importance for other States. We have briefly indicated where the misunderstanding exists. The economic portion of the work of the Conference deals principally with trade. States having no possessions in the Congo appear to us to stipulate, without any appreciable reciprocity, in favour of their subjects for certain advantages which exceed the rights conferred by the general law. The Berlin Act, apart from a clause concerning the freedom of import and transit duties, furnishes a triple guarantee which, without any intentional allusion to a celebrated motto, may be formulated in these words : « Liberty, equality, and moderate taxation under certain conditions. »

The freedom of trade, clearly defined with regard to the persons interested, must always be subject to the limits of national and international public order. Commercial freedom tempers the colonial policy of States where it is in force, in so far as it affects private rights in their relations to trade. It in no way abrogates the rights of the colonial Power as regards the land, the State domain

and its management; neither does it interfere with the commercial transactions of individuals.

Equality excludes all differential treatment of individuals based on their nationality. It does not go beyond that. It does not exclude differences unconnected with that nationality. It does not interfere with the relations between Governments and subjects, nor does it aim at putting public authorities and private individuals on the same level.

The variations in taxation which the State has the power to establish by way of compensatory rates are exceptions which must be strictly interpreted.

The Berlin Act, in the second place, deals with the question of navigation as closely related to that of trade. And in this connection, we notice another triple guarantee : freedom for all flags, an equality which excludes all differential treatment between subjects and foreigners, and moderate taxes under certain conditions.

Further on, the Act considers various means of communication destined to supplement transit where the Congo is not navigable. These means of communication include the railways. Here again, there is a triple and proper guarantee : freedom of transport; equality between subjects and foreigners; and limitation of rates.

The exercise of the various branches of economic activity, other than trade, navigation and transport by certain auxiliary means of communication, remains under the authority of each Power, the equality of treatment of both subjects and foreigners being always guaranteed.

In the Berlin Act the Powers stipulated that the advantages already referred to should be available for their respective subjects. As a principle, in matters of trans-

port, industries and commerce in general, foreign Powers have no inherent right to be treated otherwise than individuals.

The territorial authority in its own country is neither a foreigner nor an individual; as soon as it has fulfilled its duty in respect to the maintenance of liberty, equality and moderate taxation, it has accomplished the special obligations imposed on it; for the rest, one may apply the maxim « sovereignty means liberty. »

If we probe to the bottom the arguments put forward by certain commercial men in relation to the economic system of the Congo, we find that their desire is to secure all the advantages, profits, guarantees and protection that may be afforded them by the Government, whilst at the same time they refuse to recognise any of the elementary prerogatives of that Government, or to submit to any consequences, arising from those prerogatives, which they may consider burdensome. In other words, they wish to act as if they were in a State governed solely by commercial speculation, instead of by a sound economic administration.

The Berlin Act declared that commerce, in its strict and literal sense, should be free. From this, certain theorists conclude that the soil can never be appropriated, but should always remain open to haphazard enterprise, that economic operations must of necessity be limited to the gathering and exchange of produce, that the State cannot organize a regular system of land tenure nor possess a patrimonial domain, that it cannot carry on any trade or sell any portion of the land, that its right to levy taxes is not only restricted, but in a large measure suppressed, that it cannot exact from the natives impressment of labour,

nor even exercise functions of police. If this were true, conditions of life in the Congo would degenerate into a sort of anarchy tempered only by mercantile humanity. And we are asked to believe that the prosperity of the colony and the natives would follow this wiping-out of Government!

We do not for a moment deny the influence of trade in helping civilization in barbarous countries. Trade transactions on an extensive scale do a great deal towards strengthening the common interests of civilized and barbarous peoples. They stimulate the natives and incite them to self-improvement. Material influences are sometimes even necessary as adjuncts of religion itself in order to help the latter to reach the natives. But private trade, without let or hindrance, should never be allowed to remain the sole bond between civilized and uncivilized, for, unfortunately, it is not always, in these circumstances, a trustworthy means of civilization.

It is therefore gratifying to find that the Berlin Act did not leave Central Africa to the mercy of uncontrolled commercial speculation. Neither the principle of commercial freedom, as universally understood, nor its application by the Berlin Conference, allow us to accept such arguments, which arise from an evident misapprehension of facts. The error is twofold.

In the first place, there is a disregard of the limits of individual freedom and of the relation of that freedom to the colonial policy of a properly governed State.

In the second place, there is a disregard of the principle that all limitations of the sovereignty of States in this respect are exceptions, and must be strictly interpreted.

In the case under notice, such an interpretation is necessary because the abandonment of certain prerogatives by States possessing the Congo basin is not counterbalanced by reciprocal sacrifices.

Perhaps the Berlin Conference may not have clearly foreseen how rapidly administrations would develop in the Congo basin. This assumption would explain the vagueness of certain parts of the Act. As regards the import duties for instance, the Conference, in view of the fact that certain Governments considered order in the Congo basin as more or less insecure, thought fit to establish a margin of freedom which exceeded the reasonable limits of commercial liberty. The premature decay of this part of its work has been repeatedly emphasized. Freedom of transit now alone remains. The principle of commercial freedom has thus resumed its normal proportions. As to transforming that principle into an obstacle destined to prejudicially affect the fundamental institutions of the State, the Berlin Act never did anything of the kind; the mere fact that the Conference did not foresee all the consequences of these institutions working side by side with commercial interests is no justification for rejecting them. The elementary rules of legal discussion forbid such an interpretation.

We must be careful not to misconstrue the remarkable work of the Berlin Conference so as to make it both unintelligible and impracticable. That work was bold, and, perhaps, in some respects, even daring, but it was neither absurd nor impossible. And those are the true supporters of the Berlin Act who bear in mind its proper aspect, and give due weight to its influence in the economic world.

Leaving the legal, and coming to the practical aspect of the question, the opponents of the most incontestable rights of the State have pointed out how the recognition and development of the State's vast domains may restrict the sphere of commercial freedom. The same argument, however, applies to the property ceded to companies and individuals. In this latter respect the legitimate exercise of the essential rights of property and of user may lead to the same results as in the former case. But that does not prove that the measures adopted are, in either case, unjustifiable. It merely shows that a given *modus ordinandi* adopted by the State, may be quite proper and even praiseworthy. On legal grounds, the legitimate exercise of the sovereign prerogatives cannot be contested. And, as a matter of fact, arrangements can be adapted to circumstances. Of course, situations can be imagined where the unlimited exercise of sovereign prerogatives may impair commercial freedom. But these extreme possibilities do not justify the refusal to recognise a proper exercise of legitimate prerogatives, in conformity with the economic situation and the real public needs.

As we have already pointed out, some means must be found, in such cases, of conciliating private rights with the essential rights of public authorities, the said authorities being the proper regulators and judges of the means taken to compass this end.

Besides, it must not be forgotten that any income arising out of the development of State property goes to lessen the burden of public taxation. And, it is but right that this income should be finally devoted to the relief of the taxpayers, as in the case of certain well known local

administrations in Europe. There can be no harm in a government creating, as it were, a sinking fund which shall, little by little, diminish the taxation of the people. As a matter of fact, such action is a *sine qua non* of any endeavour to reduce taxation, or even of any attempt to keep it stationary. And an examination of certain colonial budgets will convince us that the setting aside of profits arising out of the development of a country can only tend to lighten the taxation, not only of traders but of the whole body of subjects.

CHAPTER II.

The Brussels Conference and the Fight against Arab slave-dealers.

1. — THE WESTERN AND COLONIAL SLAVE-TRADE.

The slave-trade, as carried on by Christian nations, dates from the sixteenth century. Statistics relating to the known elements of the Western slave-trade—which went on until the nineteenth century—give the number of African slaves imported into America as forty million. This is exclusive of twenty million who died on the high seas on board the slave-dhows : those convoy-ships of servitude which, it has been truly said, enclosed « the greatest number of crimes in the smallest possible space. » As for the number of blacks killed by slave-raiders, and judging by the proceedings of man hunters in general, they must be numbered by hundreds of millions. Such are roughly the proportions of the dark tombs of the colonial slave-trade.

And the negro question is still a difficult problem in the United States. This difficulty shows that the regeneration of inferior races must be attempted gradually and above all on their native soil.

It is hardly necessary here to recall the horrible nature

of the contracts sanctioned for centuries by European Governments in this respect. Even in official documents were these human cargoes referred to as so many « tons of niggers » just as callously as we now refer to tons of coal. It is in the light of such facts that one should read the celebrated passage in Montesquieu's *Esprit des lois* where European monarchs are urged to form a « society for the advancement of mercy and pity (1). »

At the instance of Great Britain, where the cause of humanity, so brilliantly championed by men like Granville Sharp, Clarkson, Wilberforce and William Pitt, had, in 1807 finally triumphed after twenty years' labour and seven defeats, the Congress of Vienna of 1815 and the Congress of Verona, 1822 forbade any civilized nation to carry on the slave-trade. Since then, guided by the same persevering action of the British Government, the liberation movement spread in two directions. On the one hand, it aimed at the gradual abolition of the legal status of slavery, and on the other, it tended to immediately suppress slave-markets and slave-dhows.

The results were in many respects remarkable. In 1888, the abolition of slavery in Brazil marked the last epoch in the emancipation movement in the Christian world, leaving out of the question newly-civilized countries and Oriental States where various forms of servitude, principally domestic, still exist.

Again, the careful watching for slave-dhows, by virtue of the treaties of December 20, 1841, resulted in the Ocean being practically cleared of them.

(1) Livre XX, chap. v.

2. — THE ORIENTAL SLAVE-TRADE.

It was believed that the closing of the American slave markets and the action of the cruisers would prove a decisive check to the infamous traffic. But the scourge continued to exist to a frightful extent. Driven out of the west, it took refuge in the east where vast markets still remained open. The northern and eastern coasts of Africa continued to furnish a huge business, while the interior of the Continent was still an enormous man-hunting ground, a big store for human merchandise.

Three vast regions bordering on each other and forming more than a third of Africa, and of a greater area than the whole of Europe—the Soudan, the Upper-Nile and the basins of the Congo and the Great Lakes—were the favourite scene of action of the slave hunters. The chiefs or sultans of the independent states in the Soudan, in order to supply the market in men, pushed their bloodthirsty enterprises further and further. The Khartoum slavers raided the Bahr-el-Gazal country. The Arabs and the Metis of Zanzibar devastated the Manyema and Tanganyika districts. And from various points on the western coast itself expeditions set out to ravage the regions of the Upper Kassai. In fact, enormous tracts of the Continent still remained open to the horrible traffic. « All over Africa, » wrote Schweinfurth, « dried human skeletons show that the slave-trader has passed (1). » Cameron a few years later so too « Africa is losing its blood at every pore (2). »

(1) *Im Herzen von Afrika* (French Translation by Lorcean l., pp. 62 ss.).

(2) *Across Africa*, pp. 143 ss.

3. — THE STRUGGLE AGAINST THE SLAVE-TRADE IN CENTRAL AFRICA. — THE BERLIN ACT.

In 1876, ten years before the Berlin Conference, and in the year in which the British Government published its celebrated *Report of the Royal Commission on Fugitive Slaves*, the King of the Belgians, as we have seen, called upon all right-minded men to help to stop the horrible traffic, which, he said, « put the present age to shame. »

Evidence of the extent and severity of the scourge accumulated with as much force as unanimity. And what could be more conclusive than that of Livingstone and Stanley, John Kirk and Bartle Frere, Nachtigal and Wissmann, Serpa Pinto, Massaia, Lavigerie and a score of others. Nobody was surprised when Prince Bismarck, in his inaugural speech at the Berlin Conference of 1885, reminded the Powers of their sacred and already acknowledged duty, and proclaimed the necessity of taking another step in the direction of the « suppression of slavery, and especially of the black trade. »

Clauses 6 and 9 of the Berlin General Act confirmed these words and gave an ampler and more precise official sanction to the declarations of Vienna and Verona.

By Clause 6, the Powers agreed « to give due attention to the preservation of the native races, and to the improvement of the moral and material conditions of their lives, to do their utmost to suppress slavery and, above all, to put down slave-trade. »

Clause 9, after extending the definition of slave-trading

any act on land or sea tending to supply slaves for the market, went on to declare that the territories mentioned in the Berlin Act could not be used either as markets or means of communication for the slave-trade; and added that the Signatory Powers undertook to employ all the means at their disposal « for putting an end to this trade and punishing those who engage in it. »

The distinction between slavery and the slave-trade was clearly stated in the course of the transactions of the Conference. After referring to slavery in the terms which we have mentioned, Baron Lambertmont added : « The slave-trade has another character; it is the very denial of every law, of all social order. Man-hunting constitutes a crime of high treason against humanity. It ought to be repressed wherever it can be reached, both on land and sea. »

The British Government would have liked to go further than was stipulated by clauses 6 and 9 of the Berlin Act. « The Conference, » said the British Plenipotentiary, « should draw up a separate convention, applicable throughout the world, and destined to form a complement to the international law on this subject. » But this suggestion evidently appeared to exceed the already wide limits of the original programme. The Conference, through its secretary, even recognised that the sphere of action of the colonial authorities must of necessity be limited for a certain time. This led it to make an appeal « to generous and civilizing enterprise. »

4. — THE PROBLEM OF THE SUPPRESSION OF THE SLAVE-TRADE AFTER THE BERLIN CONFERENCE.

Two things were absolutely necessary if the resolutions of the Powers were to have any practical value : the development of the new possessions on the east coast and in the interior of Africa, and a series of regulations commensurate with that development.

The remarkable political partition of Africa, which soon followed and which was made in the spirit of peace and good feeling inculcated by the Conference, quickly supplied the first factor ; the second was naturally dependent on the action of the local authorities.

It was King Leopold II. who, to his honour, first conceived the idea of making the suppression of the slave-trade in its home an integral feature in the scheme of African civilization ; and the vast State which, in the course of a few years, he built up in the heart of the dark continent and in contact with all the chief centres of the nefarious traffic, as may well be expected, was not slow in carrying out the resolutions of the Berlin Conference. A significant example of its activity in this respect is to be found in the issue of the *Bulletin officiel de l'Etat indépendant du Congo*, for November, 1888, which alone contains three important decrees aiming at the suppression of slave-trade and protection of the natives.

The first decree forbids trade in fire-arms, gunpowder and other explosives. This reminds us of the suggestive remark of a slave-Chief (quoted in our *Les Grandes Initiatives dans la lutte contre l'esclavage*), who when asked

how he penetrated to the heart of Africa, replied :
« With powder. »

The second decree is of considerable importance in regard to the protection and improvement of the native races. It deals with contracts of service between natives and non-natives. It affords the former special and altogether humane protection, and it lays down the procedure by which such protection is to be guaranteed.

The third decree, a measure this, of directly coercive character, concerns the formation of volunteer corps, which, according to clause 5 is empowered to suppress crimes and offences against public order or individual liberty. For any aggressive action, however, the consent of the Sovereign's delegate is necessary. And, be it noted, these regulations did not remain a dead letter. About the same time the Belgian Anti-Slavery Society organised a special volunteer corps for work in the Tanganika country. Three successive expeditions were organized by the Society, aided by the Government who evidently bore in mind the recommendation of the Berlin Act to encourage and support « every generous and civilizing enterprise. »

Moreover, it is but justice to add that modern European Governments in general, although they are unable to complete their work of civilization immediately they annex a territory, nevertheless loyally keep in view the highest humanitarian interests and gradually do their utmost to improve the general condition of the people. And what a contrast all this is to what took place in the eighteenth century ! the nations of Europe partitioned the coast of Africa in order to carry on commercial transactions. The French were to operate between Senegal and Gambia,

the British on the Gold and Ivory Coasts, the Portuguese in the Angola and Benguela countries. And what was the object of this distribution? To facilitate slave-trading and render it more profitable. In the nineteenth century, the Powers of Europe again partitioned Africa but this time with different objects. The abolition of the slave-trade now became one of their chief concerns and their chief duty, and they have given proof that they mean to accomplish it. It is gratifying to note this important step in the onward march of humanity.

5. — THE ANTI-SLAVERY MOVEMENT. — ITS ORIGIN
AND CHARACTER.

It would not, however, be exact to affirm that the great antislavery movement leapt forth ready-made from the brain of Diplomacy like Minerva all armed from the head of Jove. The resolute attitude of the Governments in regard to the trade was rather the outcome of a remarkable manifestation of public opinion. A great wave of pity and generosity passed over our old world and our inflamed minds and our hearts. And the Governments did well to recognise and take advantage of the opportunities offered by this current of public opinion.

Religion, establishing the universal brotherhood of man on the common fatherhood of God, played its part in the revival. Every religious sect, every Christian influence joined hands with every form of humane sentiment, thus showing that at times all the elements of civilization unite in defending the rights, nature and common interests of the human race.

The Head of the Catholic Church, in his famous encyclical to the bishops of Brazil, dated May 5, 1888, after making a joyful reference to the fact that a vast Empire of the New World had abandoned slavery, pointed out the lamentable condition of Africa in this respect. Leo XIII. re-echoed the cry of alarm raised by Leopold II. in 1876. His Holiness condemned this « base trade in human beings carried on in the most barbarous fashion ; » he pictured the sufferings of the numerous victims, and called upon all « those who wield power, those who sway empires, those who desire that the rights of nature and humanity be respected, and those who desire the progress of religion, to unite, one and all and everywhere, towards the abolition of this most shameful and most criminal traffic. »

A few days after the publication of the document referred to, a memorable scene was witnessed in Rome. For the first time in the course of ages, the Christian negroes of Central Africa, were introduced to the Pope by Cardinal Lavigerie. The account which Leo XIII. had just given to the world was their history. They had been dragged, with the yoke on their neck and along roads strewn with the bones of their dead brethren, to the markets of human flesh. And now they stood side by side with their deliverers, the missionaries of Africa, their ebony skins standing out in sharp relief against the white clothes of the latter. And the « Apostle of the blacks, » remembering the great events of Christianity, recalled St. Paul's epistle to Philemon recommending the latter to receive the slave Onesimus, not as a slave but as the dearest of brethren. Leo XIII., looking pale in his priestly vestments and his eyes

flashing with a kind but energetic light, said in his turn : « You have truly spoken, Cardinal : since We have been Pope, Our eyes have turned towards that disinherited land. Our heart has been touched by the thought of the enormous amount of physical and moral misery that exists there. We have repeatedly urged all those who have power in their hands to put a stop to the hideous traffic called the slave-trade, and to use all and every means to secure that end. And, inasmuch as the African Continent is the principal scene of this traffic and, as it were, the home of slavery, We recommend all missionaries who there preach the Holy Gospel to devote their whole efforts, their whole life, to this sublime work of redemption. But it is upon you, Cardinal, that We count especially for success. »

Cardinal Lavignerie did not fail to fulfil the mission thus entrusted to him. He had promised to report what he knew of the nameless crimes which desolated the interior of Africa and to utter a cry, a powerful cry which should stir to the soul every one worthy of the name of man and of Christian. He kept his promise. The first response to his appeal came from Belgium where an Anti-Slavery Society was rapidly constituted. This was followed by the formation of similar societies in France, Germany, Austria, Switzerland, Italy, Spain, Portugal and elsewhere. Another response, of no little encouragement, came from the British and Foreign Anti-Slavery Society, which had been at work for a long time already, and was destined to take new and remarkable action in the near future.

Leo XIII. had called upon the nations to defend the dignity of human nature on behalf of their numerous black

brethren. Such a task was naturally open to every man of good will. The action of the Church of Rome in the matter no more assumed a sectarian character than did Livingstone's, when he uttered the celebrated words which Britain wrote on his grave : « All I can say in my solitude is, may Heaven's rich blessing come down on every one—American, English, Turk—who will help to heal this open sore of the world. » (*Personal Life of Livingstone*. W. S. Blackie, London, 1880.)

6. — THE AGREEMENT BETWEEN GERMANY AND GREAT BRITAIN. — GREAT MEETINGS IN GERMANY AND IN ENGLAND.

On the broad basis of the anti-slavery question, all right-minded men, all nations, every Government, could and did join hands.

The Arab insurrection on the east coast accentuated the need for energetic action, not only on humanitarian but also on political grounds. There is no doubt that the slave-traders had purposely brought about the insurrection. Realizing that they were too weak to resist alone the efforts of Europe, whom they knew to be resolutely determined on putting down the slave-trade, they fancied they could compensate for their own want of strength by inciting certain tribes in the German protectorate to revolt. The signal for the rising was given from the banks of Lake Nyassa at the instance of Zanzibar. The momentary check sustained by the Germans on the east coast determined Germany to take more energetic action against the slave-traders.

The first great German anti-slavery Meeting, held at Cologne on October 27, 1888, was a memorable assembly. The enormous Gürzenich Hall was filled with a representative audience. The presence of numerous ladies showed that the question was a burning one and that it found a ready echo in family life. On the platform were the leading State officials of the Rhenish Provinces, members of the German Legislatures, and the highest dignitaries of various religious sects. Commerce and industry were represented by their respective notabilities. Was it a patriotic sentiment which caused so many people of such varied opinions to meet with one common purpose? Not patriotism alone. That sentiment was joined to another which elevated and purified, without lessening it : the sentiment of humanity. These men were all aiming at one object, which, in spite of the shadows and difficulties of the present, appeared to them as a bright vision dominating the future : the rescue of the African races, the civilization of a Continent.

When the president of the meeting rose there was complete silence. The rights of Germany, said Generalstaatsanwalt Hamm, have grown with her power ; her duties have increased in the same proportion. If the German flag flies in Africa, if portions of the African coast have become an extension of the Fatherland, it should be for the growth and honour of civilization. That is the primary moral and legal justification for the occupation of a new Continent by European nations. The time for generous action has come. The German nation must answer the call of duty and of its interests. It must answer that call with the determination born of

a unity, publicly proclaimed and solemnly confirmed, which inspires every citizen with the same desire. It must answer that call in unison with every other civilized nation.

These sturdy, patriotic words were enthusiastically applauded. A similar reception awaited Wissmann, the brave explorer, and the other speakers who followed him. The meeting, after kindly welcoming the present writer, who profited in no small measure by the excitement of the hour, unanimously adopted the following resolutions which were at once sent to the Chancellor of the Empire and to the Reichstag :

« 1. — The suppression of slave-raiding with its attendant horrors, devolves upon Christian States and constitutes the precedent condition of the abolition of the slave-trade

« 2. — Although the Congo Conference obliges all the Signatory Powers to help in the suppression of slavery and the improvement of the lot of the natives, nevertheless the Congo State, Portugal, Great Britain and Germany, being directly threatened by Arab slave-traders, are expected to take the initiative in, and to bring to a successful issue, the struggle against the slave-trade.

« 3. — The meeting expresses the conviction that the honour of the German flag and German interests, which have been violated by Arab slave-traders in East Africa, will be avenged by the Imperial Government.

« 4. — It also expresses the hope that the Reichstag will support these resolutions, as a proof of the perfect agreement of the German nation without distinction of party or creed. »

In replying to Generalstaatsanwalt Hamm on November 6, Prince Bismarck stated that the German Government would do its utmost to bring about an understanding between the Powers interested for adopting measures

against the slave-trade, and that he was negotiating in this direction with the British Government.

On November 13, the *Deutsches Reichs Anzeiger* published an announcement to the effect that in view of the growing hostility of Arab slave-traders, an understanding had been arrived at between the Cabinets of Berlin, London and Lisbon, especially in regard to coercive measures on the east coast of Africa.

In opening the Reichstag in November, 1888, the Kaiser spoke strongly on the subject; and on December 14, 1888, the Reichstag adopted a vote of approval.

In England, at the meeting held in London on July 31, 1888, under the presidency of Lord Granville, formerly Foreign Secretary, the following resolution was passed, on the motion of Cardinal Manning :—

« The time has now fully arrived when the several nations of Europe who, at the Congress of Vienna, in 1815, and again at the Conference of Verona, in 1822, issued a series of resolutions strongly denouncing the slave-trade, should take the needful steps for giving them a full and practical effect. *And, inasmuch as the Arab marauders (whose murderous devastations are now depopulating Africa) are subject to no law, and under no responsible rule, it devolves on the Powers of Europe to secure their suppression throughout all territories over which they have any control.* This meeting would, therefore, urge upon Her Majesty's Government, in concert with those Powers who now claim either territorial possession or territorial influence in Africa, to adopt such measures as shall secure the extinction of the devastating slave-trade which is now carried on by those enemies of the human race (1). »

(1) *Times*, August 1, 1888.

7. — GREAT BRITAIN'S APPEAL TO BELGIUM. —
THE BRUSSELS CONFERENCE.

On September 17, 1888, the British Government, resolved on bringing about a Conference of the Powers, appealed to Belgium and, paying a tribute to the initiative taken by King Leopold II. in the matter, invited the Belgian Government to take the preliminary steps.

« The altered political condition of the African seaboard, » said the British Minister to the Belgian Court, « calls for some united action on the part of the Powers now responsible for its control, with a view to the closing of all foreign markets for slaves, and the consequent discouragement of the internal slave-hunts.

» The great work of His Majesty the King of the Belgians in the formation of the Congo State, and the keen interest taken by His Majesty in all questions affecting the welfare of the African races, encourage Her Majesty's Government to hope that Belgium may be inclined to take the initiative in inviting those Powers to a Conference at Brussels, to consider the best means for securing the gradual suppression of the slave-trade on the Continent of Africa and the immediate closing of all the external markets which it still supplies. »

It was in these circumstances that Belgium was induced to call a Conference of the Powers, on November 18, 1889, to decide on a course of action calculated to

« put an end to the crimes and havoc wrought by the African slave-trade and effectively to protect the native populations of Africa. »

We are not at present concerned with an analysis of the

international work as set forth in a hundred clauses drawn up by the Conference. We need only note that the Brussels General Act attacks the slave-trade in the stronghold of the man-hunters, follows it on the caravan routes, on the coast, by sea, where the action of the cruisers is called in, and finally to the great Oriental slave-markets. At each of these stages, the Act prescribes repressive, protective and liberating measures, in accordance with the end in view. The various Governments are appealed to for the purpose of adopting effective and uniform penal laws. The regulation or restriction of the trade in spirits and fire-arms is also provided for, permanent institutions are created in Europe and Africa to help carrying out the provisions of the Act, and financial measures are agreed upon to facilitate the new task.

With regard to the extent of the undertakings given by the Powers, we must consult the report on clauses 1 and 3 of the General Act of the Conference. A comparison should also be made between the original and the amended text of clause 3, inasmuch as this comparison will show how the Powers, chiefly at the instance of France and England, provided against any conflict of interest and how they safeguarded their independence.

In the course of the debate preceding the confirmation of the Brussels Act by the French Parliament, one of the speakers, somewhat annoyed by the clauses concerning the right of search, made a paradoxical remark which has since been readily appropriated by certain people for their own ends. He said : « The Conference was only held to arrive at one practical result : the suppression of commercial freedom in the Congo. » This observation

showed an absolute disregard of the origin and purport of the work accomplished by the Brussels Conference, and history disproves it. What is true, and what may be admitted without altering the character of the work performed by the Conference, is that, following on the loyal declaration of the Congo Free State concerning the necessary relation between the fresh obligations to be incurred by it and the resources indispensable to meet those obligations, the Conference modified, before the time mutually agreed upon, a regulation to which the Berlin Act had given an experimental and temporary character : the absolute prohibition of import duties.

In place of this absolute prohibition was substituted—with the immediate consent of all the Powers except one, which finally also gave its assent—the permission to levy moderate import duties, exclusive of any differential treatment. These duties were to be uniform throughout the Congo and were not to exceed a maximum of ten per cent of the value of the imported goods. These duties could not interfere with commercial development in the Congo, any more than similar duties do elsewhere. Moreover, they provided the Government with a source of revenue which it could not fairly expect to derive from direct taxation or interior duties on articles of consumption, nor from any other source than that of the customs, which are, after all, the principal means of revenue in most colonies during the primary phases of their evolution.

8. — NEW HOMAGE BY THE POWERS
TO THE CONGO STATE.

It is not without interest here to recall some of the authoritative opinions expressed at the meeting of the Conference on May 10, 1890.

Lord Vivian, the British Minister, was the first to support the proposal which had just been made by the President. His Lordship said :—

« As to the question whether this modification is opportune, the fact must not be lost sight of that the Berlin Conference never intended to fix unalterably the economic system of the Free State, which, as was already then foreseen, would undergo radical modifications under the influence of progress, nor of establishing for an indefinite period regulations which may hinder, check, and even arrest its development. Provision was wisely made for the probability of future changes, which would require a certain latitude in economic matters in order to secure their easy réalisation...

» The moment has now come when the marvellous progress made by the infant State is creating fresh needs, when it would be only in accordance with wisdom and foresight to revise an economic system primarily adapted to a creative and transitional period.

» Can we blame the infant State for a progress which, in its rapidity, has surpassed the most optimistic forecasts? Can we hinder and arrest this progress in refusing her the means necessary for her development? Can we condemn the Sovereign who has already made such great sacrifices to support for an indefinite period a burden which daily becomes heavier, and at the same time impose upon him new and heavy expenses necessitated by the suppression of the slave-trade?

» We are convinced that there will be but one answer to these questions. »

Immediately after Lord Vivian, Count von Alvensleben, the German Minister, expressed himself as follows :—

« The Imperial Government will be glad to have such an opportunity of showing its sentiments of sympathy for the Congo Free State, which, under the wise direction of its August Sovereign, has given such striking proofs of vitality.

» The German Government will willingly lend its help to placing the Congo Free State in a position to dispose of the means which may seem necessary to assist its development and to enable it to continue its valuable services to the cause of civilization and humanity.»

The official representatives of Italy, Portugal, Austria-Hungary, France, Russia, Denmark, Spain, Sweden and Norway spoke in similar terms; and the Dutch Government, although its point of view was a different one, was good enough to recall through Baron Gericke d'Herwijnen « the well deserved homage it had rendered to the work of the King of Belgians from its very commencement. »

The manifestation of opinion was so striking that the President of the Conference, in thanking the Powers, said :

« The King will find in the homage now rendered him the highest reward of his toil and sacrifices, and it will at the same time afford him a great encouragement and be a source of legitimate pride (1). »

The questions of procedure and means of execution, which were discussed later, and which were all satisfactorily settled after some objections had been disposed of, received a solution which confirmed the foregoing remarks.

(1) *Actes de la Conférence de Bruxelles, 1889-1890*, p. 246 and seq.

They condemn, we think, the purely retrospective criticisms which still occasionally appear.

It is not only in the case of the Congo Free State that the need has been felt of special resources in order to carry out the necessary improvement of the country. In the *Documents inédits ou complémentaires communiqués par des plénipotentiaires à la Conférence de Bruxelles*, we find the following declaration from the Imperial German Government :— « The Arabs, who may be regarded as the man-hunting gang, are already weakened by the measures adopted. Recent events in the German possessions on the east coast, will both destroy the Arab prestige and increase our influence in the interior... The abolition of the abominable trade in human flesh will be accomplished, provided the necessary means are forthcoming (1). »

9. — ENFORCEMENT OF THE BRUSSELS ACT. — THE NECESSARY FIGHT AGAINST SLAVE-TRADERS.

The Congo Free State has been blamed not only because it asked for the means of carrying out the wishes of the Powers, but also because it duly employed those means for the attainment of the recognised object. The Congo State was not itself in a position to find all the necessary resources, but was in the best position for performing the required work.

The execution of the provisions of the Brussels Act

(1) *La Traite des esclaves en Afrique. Renseignements et documents recueillis pour la Conférence de Bruxelles. Supplément.* Report of Major Wissmann, p. 264.

was bound to bring the Congo State into conflict with the Arab slave-traders. The position taken up by the latter in regard to Germany on the East Coast sufficiently showed that they would not submit without a sharp struggle.

We know how the armed bands under Arab slave-traders or Zanzibar-Metis conducted their operations in the interior. Their proceedings have been described by numerous explorers. The whole of the evidence on this subject—of incontestable trustworthiness and including the reports of travellers, missionaries, diplomatic and consular agents, naval officers, all dealing with the history of the half-century prior to the Brussels Conference,—was collected by the Belgian Government and placed before the Conference under the title of: *La traite des esclaves en Afrique. Renseignements et documents recueillis pour la Conférence de Bruxelles (1840-1890)*. The revelations therein contained are of the most fearful nature. Memories are short nowadays, but the impression produced on the minds of contemporaries by the perusal of these terrible accounts of the horrors brought about by the slave-trade will never be effaced. There are no extenuating circumstances; no excuse or defence of such barbarians should be attempted.

To include the Arabs as a whole in a general reprobation is out of the question. Neither shall we condemn a race as such, nor shall we discuss the Khoran. There are Arabs with whom European Governments can very well maintain good relations, provided the former observe social order, and the latter respect religious creeds.

Religious fanaticism has produced enough evils in Africa

and elsewhere, without being charged with every crime. But it was not responsible for the fury of the slave-traders in the Congo. The desire to procure, by fair means or by foul, a fortune in slaves and ivory, together with the elements of enjoyment and power involved in such a fortune, and the bait of enormous gain realized by means of unbridled licence, were the chief, if not the only motives of so many devastating and blood thirsty expeditions. The Arab and other slave-traders who had too long raided the African Continent were, as Livingstone remarked, freebooters and outlaws of society. They were, in the words of Wissmann, the scourge of Africa. Serpa Pinto said of them : « Such beings cannot dishonour their country, for they no longer have one (1). » Their extermination was necessary and the wiping-out of the slave-trader from the records of African history is an event of which humanity may well be proud.

10. — THE CAMPAIGN AGAINST THE ARAB MAN-HUNTERS AND SLAVE-DEALERS. — THE DOWNFALL OF ARAB POWER IN THE CONGO.

Accustomed to the widest licence in their depredations and carnage, the Arab slave-traders looked with apprehension on the formation and progress of the new State, which had risen up in the very heart of their hunting-ground. When they saw that Europe and the Congo State firmly meant to suppress the infamous traffic with all its accompanying horrors, they became defiant rather than submis-

(1) *Comment j'ai traversé l'Afrique*, French translation, p. 80.

sive, and barbarism seemed to challenge civilization. At the same time their Chiefs united, resolved to brave all law, and to establish an *imperium in imperio*, or, rather *contra imperium*. In these circumstances, it was not only the duty of humanity towards the African races, but the duty of self-preservation which dictated the action of the State. The collision was inevitable. The aggressiveness of the slave-traders in the State helped to hasten it.

Surprised at first by the violence and daring of the rebels who captured the Falls station at a single blow, the State was led to adopt a policy of necessary caution and careful foresight. Therefore, the allegiance of the wealthiest and richest of the Arab Chiefs, Tippoo-Tip, who had not participated in this latest raid, was enlisted to help in the suppression of the Arab rising, and thus to afford the unfortunate natives some respite and to gain time to prepare for the decisive struggle.

The struggle was not long delayed. It was fierce and obstinate on the part of the slave-traders, valiant, admirable, ably conducted on the part of the men chosen by the State to carry it on and it resulted in the annihilation of the power of the slave-traders. This happened towards the end of August, 1893. The crucial test had been successfully passed. The State had, of course, still to deal with risings of a more or less serious character, but the final result was no longer doubtful. One is afraid to think what would have been the consequences for the future of Africa, if a new Mohammedan Power, with its disdain of the native races and its hatred of European authority, had triumphed in that critical struggle. That is why the definite fall of Arab sway in the Congo may be

classed among the salient events of the nineteenth century.

The slave-traders crushed, the State reaped the fruits of its victory in the pacification of large tracts of country formerly infested by those hordes and in the development of a legitimate trade based on the natural resources of the country. And, as a matter of fact, it was astonishing to see how, in spite of difficulties, the people began to prosper, and how the emancipated region took the useful and honourable place due to it as part of the State.

II. — RESULTS OF THE VICTORY.

Some critics, who will admit of no excuse for the least act of insubordination or excess committed by any servant of the Congo Free State, are prone to pity the unfortunate Arabs who were exterminated by the Congolese soldiery. Laying stress upon certain improvements effected in their purely barbaric surroundings by certain Potentates of Central Africa, a milder treatment is claimed for them for the sake of economic progress. But the fact that powerful Arab Chiefs have treated some of the African races with relative leniency in order to ensure their co-operation in their criminal raids, and the fact that they have even opened up new commercial markets, do not affect the main characteristics of their domination which, outside a very small area, have consisted in man-hunting, carnage, village-burning, and pillage carried out with a refinement of horror before which native barbarity dwindles into insignificance. And, from a more general

point of view, it seems certain that if civilized Powers, such as Great Britain, Germany, France and the Congo State, had not overpowered some of the native races, such as the Mahdists, the Zanzibaris, the Niger and other tribes, the area of devastation must have increased and the infamous trade in human flesh must have continued to flourish.

With regard to the « tide of commerce » which is sometimes used as an argument in favour of the slave-traders, it can never, in common justice, be contended that a system which consists of merciless pillage and in transporting to the coast by slave-caravans the produce of that pillage and there selling, along with the booty, the captives who have been constrained to carry it, can help to solve the commercial problem or to cheapen the cost of transport. The question is rather whether the toleration of this kind of business could ever have been compatible with the duties of the Powers who had resolved to suppress the trade. Again, it should not be forgotten that the slave-trade, both from its character and from the profits *sui generis* which it brings, is the born enemy of honest trade as applied to the development of the natural resources of a country. The pernicious influence of the slave-trade from this point of view has been pointed out by numerous explorers.

« All ideas of commerce, the improvement and the advancement of the African race that philanthropy can suggest, » said Sir Samuel Baker, « must be discarded until the traffic in slaves shall have ceased to exist (1). »

(1) *Ismaila*, p. 409.

And similarly Pogge and Wissmann, on the question of « tide of commerce » set going by slave-traders :

« In the west much has been done of late years to bring about a more rational and humane state of things ; but in the east the Arab advances continually followed by a procession of misery and desolation and grows stronger from day to-day to the detriment of the natives. How long will Europe permit this shame, how long will she suffer herself to be fooled by these scoundrels ?

» The first step towards the regeneration of the black man is the destruction of the destroyer of the African race, of the adventurer whose power daily increases, in a word, of the Arab.

» As long as Europe is not strong enough to follow up the results already obtained by her voyages of discovery, the explorer can never be satisfied with his work ; it will have injured rather than benefited the native races. People hesitate before resorting to extreme measures, but they lose sight of the fact that, if their efforts were concentrated on a single object, more would be done in a day for the real welfare of Africa than has been accomplished in past decades, nay even in past centuries (1). »

The Free State did not flinch before its perilous task, and it has reaped the fruits of its energy.

Important traders of the East Coast, who have nothing whatever in common with the direct or indirect apologists of the slave-traders, seem to have reproached the Congo Government because legitimate trade has left the formerly frequented tracks and been diverted rather towards the West Coast, thus using the splendid means of communication afforded through the territory of the Free State. This circumstance cannot be made a cause of reproach ; and it was

(1) *Unter deutscher Flagge querdurch Afrika*, p. 297ss.

surely not a sufficient reason for the State to shrink from accomplishing the duty it owed to civilization and to itself. On the contrary, it was but a just compensation for the heavy sacrifices made by the State to clear its domain of scoundrels and to purge the country of the sole element which hindered the normal development of the native races and the progress of colonization.

The exercise of certain rights by neighbouring countries may occasionally affect the interests of other States. While this may be regretted, it is not sufficient to destroy those rights. Otherwise the right of building a railway line might be disputed on the pretence that it diverts an existing trade in a new direction. Nobody can blame the German colonization on the East Coast of Africa for encouraging, by the improvement of the Kilwa route, the flow of the commercial current to the Zambesi through German territory. Neither can British colonization be blamed for attracting trade by means of the Mombassa railway. Healthy competition and fair rivalry are the best regulators of such conditions. Colonial enterprise must ever be subject to vicissitudes; but the future may reward perseverance with unexpected compensations.

Belgium, in common with all friends of civilization, followed with profound interest the course of its children's struggle against the Arab slave-traders. She hailed the victories of Dhanis and his companions in arms in Central Africa with the same pleasure as was shown by other nations at the victories of Wissmann on the East Coast, of Lord Kitchener at Khartoum and of General Dodds in Dahomey. She has commemorated the bravery of some of her sons by lasting monuments such as that of the

heroic sergeant De Bruyne. She has received with joy each new element of prosperity connected with achievements which history will record with admiration and which every friend of humanity will bless. She sees that the King-Sovereign braved the risks of a war with the Arabs, not only as one of his duties under the Berlin Act, not only as a duty of political preservation, but as an act of supreme wisdom from the point of view of the progress of colonization, of the moral and material development of the black races, and of the general welfare of Central Africa.

Central Africa explored, the Congo State founded, the Arab potentates vanquished :—such are the three jewels that Belgium rejoices to see shining in the double crown of her King.

CHAPTER III.

Revisionary Tendencies.

Such great Acts as those of Berlin and Brussels cannot escape criticism. They cannot satisfy the views of all, nor can they at once realize all the expectations formed of them. Hence, complaints, often groundless, and recriminations, sometimes without moderation.

Criticism of the purport and application of the Berlin and Brussels Acts has not been wanting. In certain cases that criticism has been of a revisionary character; it has dealt in turn with the humanitarian and the economic aspects of the Acts.

With regard to the humanitarian aspect, and while admitting that all human work is capable of improvement, we consider that it would have been difficult to do any thing better than what has been done. Can colonizing nations be expected to kill slavery at one blow? Can native morals and customs be reformed in a day? Can colonial Governments grant one another reciprocal rights over their respective territories, inconsistent with the independence of any of them? Can those Governments be held responsible for the individual misdeeds of individuals which their police, however vigilant they may be, are unable to prevent, and which their Magistrates are honestly doing their best to repress? Is it possible for colonizing

nations to proceed *ne varietur* in all matters relating to the treatment of natives? Those who know how difficult it is to succeed in international negotiations look upon certain results attained as altogether un hoped for : let us be very careful then not to put them in jeopardy.

With respect to the economic portion of the important Treaties in question, the difficulties of a revision are even greater. Can it be imagined that an assembly of the Powers should entertain such preposterous claims as have been advanced by some merchants in relation to the Congo basin, which a prominent French statesman, M. Etienne, has summarized as follows : « La maison est à moi, c'est à vous d'en sortir (1). »

Considering the past, can it be believed for a moment that Governments, who have conceded their whole domain in the Congo basin, would willingly cancel such concessions with their consequent rights?

And, looking to the future, can it be supposed that no account should be taken of the complete change of circumstances and of all the progress that has been made in the basin of the Congo since 1883? Can one fail to see that the questions raised must in undeniable equity have a bearing not only in the Congo basin but in other districts in Africa, and even in other countries placed in a similar position? Can one imagine that it would be so easy to come to an agreement on all such questions and on many others besides, to which useless to refer? It is easy to speak of the renunciation and revision of treaties, when the advantages conceded are mutual; but is revision

(1) *La Belgique coloniale*, 26 janvier 1903.

advisable for parties who have obtained everything without corresponding compensation?

In one respect, perhaps, an important improvement might be made in the Berlin Act if it were agreed upon by all parties. We refer to the extension to be given to the arbitration clauses. The primary proposal of the German Government was based on broad grounds which were only abandoned because of French opposition. The pledges since given by the latter Power and by several others, especially at The Hague Conference, when arbitration was established, warrant the hope that a similiar agreement with respect to international questions in Africa will be effected. However, this result could also be arrived at by means of The Hague Convention alone, without any revision of the Berlin and Brussels Acts.

We know with what care the Berlin and Brussels Conferences kept their discussions clear of questions of territory and sovereignty. Irresponsible pamphleteers, who cannot be ignorant of this circumstance, pervert the revision of the Berlin and Brussels Acts into a support of their own views on territorial questions. Such a course can only be described as an attempt at useless agitation.

Colonial questions are the most difficult of all and the least susceptible of absolute solution. The International Colonial Institute understood this so well that, as soon as it was established, it declared that it did not intend to follow the theory of any particular school.

It would be crediting Governments with small wisdom and little foresight, to admit that they would venture upon an authoritative enquiry into their respective colonial

administrations, or upon issuing a uniform code relating to colonization.

The Berlin and Brussels Acts have realized nearly all that it was possible to attain in this respect by way of international agreement. The wisest course is to leave them untouched, and, above all, not to introduce into them, as some have suggested, either good things which are not new, or new things which are not good.

PART THE THIRD

THE INSTITUTIONS

The Institutions.

Among the great colonial establishments recently founded in the Congo is one which, when we glance over the map of the dark continent, attracts at once our attention, and, as it were instinctively, excites our sympathy.

Its position is one of great audacity corresponding, as it does, to the great blank patch on the map of Africa which we scarcely noticed in our youth in the midst of those countries which were still for every one *terra ignota*.

Its mode of formation has been most remarkable, and, as it were, unique in the history of International law. Indeed, to such an extent is this the case that it seemed impossible to place it in any of the usual categories recognised by the exponents of International law.

Its vocation as a means of civilization is not less worthy of attention : after being in the vanguard of the struggle against the Arab slave-traders, and after undertaking to purge Central Africa of those ravagers, it set about the peaceful settlement of the native populations under a paternal Government, and their development in a higher and better life, with a view to their ultimate co-operation in the great work of universal civilization.

For the Belgians, this land offered a favourable field where their activity could be well employed and where they would be able to display all the energy of their race.

We have already shown how His Majesty Leopold II., after taking the initiative in the movement for the entire civilization of Africa, founded the Congo Free State in a territory where no authority then existed, and how the main provisions of the Berlin and Brussels Conventions indicated, from a humanitarian and commercial point of view, certain bases of the policy to be adopted by the various Governments interested in the basin of the Congo.

On the foundation thus laid, the authority of the Sovereign built up a complete political organization in which the problem of civilizing the barbaric races is solved in a manner both successful and wise. This organization, little known abroad nor even in Belgium, is, nevertheless, of an exceedingly interesting character. Without pretending to make an exhaustive study of it, we will indicate its salient features.

We have already examined at some length, in our recent work on Belgian neutrality (1), several new and important questions concerning Congolese neutrality and its eventual combination with the neutrality of Belgium.

In several papers, principally of a parliamentary character, we have further dealt with the relations between the Congo Free State and Belgium (2). Our present aim is mainly to study the State in itself, and we shall begin by throwing some light on the principle of sovereignty which presides over it.

(1) *La Neutralité de la Belgique au point de vue historique, diplomatique, juridique et politique*. Brussels, 1902.

(2) *La Part de la Belgique dans le mouvement africain*, 1889. — Rapport au Sénat sur le *Régime des colonies*. (Revision de la Constitution, 25 juillet 1893.)

CHAPTER I.

The Sovereignty.

Sovereignty is the supreme power which directs a political community, with a view to its preservation, its improvement, and the common welfare of its members. A population and a portion of the globe are the two elements, one personal and the other real, which form the basis for the application of sovereignty. It is by developing these elements, by bringing them within the focus of public life, that sovereignty makes a country of the territory and a nation of the multitude.

Sovereignty has a double sphere of influence :—

An internal or national sphere and an external or international sphere. In other words, it directs alike the home and the foreign policy of the State of which it is an attribute.

The form under which sovereignty is instituted does not affect its essential character : internal autonomy and external independence remain the two fundamental sovereign attributes of a State as recognised by the law of nations. Autonomy means the right of a State to regulate itself its national life. Independence is freedom from any outside control not specifically accepted, in its relations with other States.

Sovereignties which come into contact and have to

regulate their international relations do not, in fact, exhibit an absolute and inherent freedom from all bonds between them, but rather by a freedom from engagements imposed by an authority foreign to their own will, implicitly or explicitly manifested.

Like all other sovereign States, the Congo Free State, as its name emphatically calls to mind, possesses, in the double sphere of its internal and external life, all the recognised prerogatives of Sovereign States. And its position is all the more clearly defined in this connexion that it is untrammelled by the numerous bonds which generally complicate the legal existence of older States.

Like other States, too, the Congo is duly subject to two classes of international obligations :

Obligations comprised in the general law of civilized nations, which the latter assume in their sole capacity of members of the society of nations. These obligations constitute the universal law of nations.

Obligations arising from special agreements forming a special International law between the various States.

As a matter of fact all States are subject to the aforesaid obligations, and these are in no way incompatible with sovereignty. The formation of such bonds rather appears to us to be the exercise of a sovereignty capable of binding itself to the fulfilment of its mission; it is a normal form of the activity of a State, the legitimate and often necessary manifestation of that which we have characterized elsewhere as the « *fonction obligationnelle* » of sovereignty (1).

(1) *La Neutralité de la Belgique*, p. 342.

The special international obligations contracted by the Congo Free State, beyond ordinary and general law, do not differ either in nature or aim from similar obligations contracted by other States. Like them, they indicate the growing solidarity of international relations and the progress of international life.

It is not difficult to show that these engagements, in their actual tenor, constitute an enlightened use rather than, as some people have argued, a sort of abandonment, of sovereignty. This enlightened use is in harmony with the best tendencies of the times and the noblest aims of the society of nations.

They concern, in the first place, the choice of an attitude of permanent neutrality, by virtue of which the Free State ensures to other States, in the event of a conflict between them, the security of an invariably peaceful position, while obtaining from them, in return, the advantage of not being involved in their disputes. This choice may be as wise in fact as it is justified at law. Beneficial in the present, it is in harmony with the highest hopes of the future.

They relate to the possible application, in a remarkable manner, of mediation and arbitration, by virtue of provisions anterior to The Hague Conference. To that Conference belonged the task of justifying and generalizing the purpose of these previous arrangements.

These engagements, moreover, serve the purpose of ensuring special protection to all civilizing institutions, whether scientific or religious, and that, without any distinction of creed, and to all enterprises whatsoever undertaken by pioneers of civilization. Such tendencies can only be worthy of praise.

They achieve, as regards the respective civil rights of foreigners and subjects in the various States, one of the greatest desiderata of modern law, a degree of equality wholly unknown in former days and of which even our own epoch presents but few examples. It would be difficult indeed to discover in such provisions a cause of inferiority from the point of view of comparative law.

They establish in colonial politics a liberal policy which completely supersedes all the errors of the old *pacte colonial*, and leaves far behind in generosity all the practices heretofore introduced and maintained by many civilized Governments in their possessions. This example does not appear in any way to constitute an error from a comparative standpoint.

They reflect also most vividly—in all that concerns the preservation and education of native races, especially in preserving them from slave raiders, slave traders, such pernicious scourges as the drink-evil—the most powerful and best humanitarian tendencies of our time. Undoubtedly, that is no matter for criticism.

All the above provisions result from the general Acts of the Berlin and Brussels African Conferences; the limitations of sovereignty, which they imply, from the State's voluntary adherence to these diplomatic Acts. Such limitations in no way differ from those which limit the sovereignty of the other Powers established in the Conventional basin of the Congo. In no case do they touch the principle of the equality of the States in its essential elements, but they only constitute, as we have already remarked, an enlightened exercise of the paramount function normally inherent to the sovereignty of nations, and we will add that

in the case of all of them, they derive from their character of limitations of sovereignty in International law a strictly limited application.

If, on the other hand, we consider further the details of the special treaties made by the Congo Free State with other Powers, so far fairly numerous, not only do we fail to find in these diplomatic conventions—concluded on a footing of perfect equality as between States—any trace of inferiority regarding the exercise of sovereign attributes, but we can frequently point out provisions testifying to the desire of the young State to remain a faithful adherent to the law of pacific progress identified as it were with its origin. Thus on December 16, 1889, we find the State signing the first Treaty of general and permanent arbitration which was ever concluded between European Governments.

Hence it can be truly said that there is a vast and material difference between the real position of the sovereignty of the Congo Free State in International law, and the situation which some have fondly imagined when representing it as an emanation of the great Powers collectively, and wholly subordinated to them. We have already proved irrefutably, we think, that contrary to arguments adduced without any legal foundation, the Congo Free State is not a creation of the Berlin General Act. We believe that we have also shown with equal clearness that its legal International status, far from showing a case of limited sovereignty, gives a conspicuous proof of the honourable and independent position it occupies in the great family of nations.

Nor, in conclusion, must we forget to add that for the Free State as for any other State, apart from engagements

actually entered into, sovereignty remains free in its double sphere of internal and external action that, in a word, Sovereignty means Liberty.

It is in the light of this last remark that we must study and decide the questions that have so frequently been raised regarding the rights of the Congo State to acquire new possessions, to assume protectorates and to exercise other prerogatives which arise from sovereignty in international law.

CHAPTER II.

The Form of Government.

The question of the form of Governments is not capable of an universal solution. We know very well that Republics are sometimes tyrannical and that Monarchies are not always so. For nations which have a past, the best form of Government is generally that which is the most in harmony with their national character and traditions; for new nations, that which is best adapted to their social development.

The Congo Government, considered from the standpoint of its form, is a pure monarchy and that in a double sense.

On the one hand the power which the Sovereign wields is inherent in himself. His title deeds are easily proved; he holds it by right of creation, for he was the veritable creator of the Congo Free State. He found a population dwelling on virgin soil, steeped in anarchy from time immemorial, utterly unable of itself to break the yoke of barbarism from off its necks; and with these materials he built up a State, legally constituted according to international law. All the constitutive powers of sovereignty emanate thus from the founder of the State and if it be true that the rights of authorship are the most sacred rights of

all, then, are there no more warrantable title deeds than those of the Sovereign of the Congo Free State. On the other hand, all executive power is vested in the author of the State the sovereign authority is undivided and unlimited.

The Congolese monarchy is therefore not a monarchy constituted after the pattern of constitutional monarchies and there are, we think, many excellent reasons why it should not be so. The existence of native representative institutions is not even possible, and the adjunction of outside representative institutions appears so unadvisable that, even where the existence of a mother country seems to allow such system, the general experience of colonizing States tends to discard it.

Does this mean that the Congolese monarchy is in every way a despotic monarchy? The meaning of the latter expression must first be made thoroughly clear. Not only the Congolese monarchy has nothing in common with ancient despotism, which claimed an arbitrary power alike over all persons and all things, but it cannot even be confounded with certain forms of a more modern absolutism.

Be it noted in the first place that the Chief of the Congolese State is permanently and irrevocably bound to a regime of liberty of conscience and creed which gives him no right of interference in the spiritual life of his subjects.

Moreover as regards civil life, he is no less permanently and irrevocably restrained from arbitrary action, by a liberal system of regulations to be observed respecting natives and non natives.

As to the latter, a wide range of civil and commercial liberty is ensured to them. We know of no other State where the right which a Sovereign possesses of treating differently foreigners and subjects is more limited than in the Congo.

Political liberty, in so far as it concerns the participation of the governed in the general Government of the State, is not established in the Congo, and if by despotic Government be meant any Government under which no such right is recognised to citizens, then the Congo Government is a despotic Government. But then, after all, it must be confessed that this feature is common alike to all primitive colonial Governments, including those organised by nations which themselves enjoy the greatest possible political freedom. And it must also be remarked that beneath the Government's machinery, where concentration of power is needed, there exists of necessity, in the Congo, a decentralization owing to which nearly all the State's subjects are ruled by local customs under the authority of local chiefs.

Thus, it is not indispensable, in order to justify the form of Government existing in the Congo, to enter a plea of extenuating circumstances, and to speak of « enlightened despotism. » This Government, although being exactly what it should be to suit the social conditions of the realm, is tempered not only by the personal guarantees which the Sovereign offers in such a high degree, but also by a system of positive rules which do not allow of its being regarded as merely despotic. If we may be permitted to use a colloquialism, the Government of the Congo Free State is in fact « the right Government in the right place. »

Undoubtedly, if we compare the Congolese monarchy

with the monarchy of Belgium, the differences are very great. The latter monarchy is evidently tempered not only by its rule of action but also by its institutions.

But, after all, the dissimilarity of the two States is but the consequence of diversity of origin, of mission and of the elements of which they are composed.

Pure monarchy in the Congo is as justified as constitutional monarchy is in Belgium. The actual union of both in the person of His Majesty Leopold II. leaves to each of them its own character even in the various relations which they may establish. The transmission of the Congolese Crown so far as a King of the Belgians is concerned, is only subject to the rule by which the King cannot be Chief of a foreign State without the consent of the two Chambers, to be given according to the conditions laid down in Article 62 of the Belgian Constitution.

As the incarnation of a pure monarchy, and as invested with all the attributes of sovereignty which the public life of a nation involves, the Chief of the Congolese State virtually concentrates in his person, with the exception of such delegations as he chooses to make, the external and internal activity of the Government. He is the only law-giver, he alone creates the institutions necessary for the exercise of his power. He names officials, and directs their action, his is the foreign policy of the State. He is the quickening spirit who gives effect to the various manifestations of governmental life, which he controls at will.

CHAPTER III.

The Territory.

The territory of the Congo Free State covers, according to geodesical estimates, over 2,000,000 square kilometres spreading out in a great mass over the marvellous and gigantic Congo basin. In fact it covers the whole basin save only the dependencies acquired by France on the North, by Portugal on the South and by England on the South-East, which are in some way counterbalanced by the Free-State province on the Atlantic Coast and that which embraces Lake Albert-Edward. Round this central block are situated the German and English possessions on the coast of the Indian Ocean, the French and Portuguese, on the Atlantic coast, the Free State spreading out on the banks of the great river's estuary.

1. — THE STATE'S BOUNDARIES.

It is well known that, originally, a series of separate Acts of recognition—fourteen in all—were concluded between the International Congo Association and the Powers, beginning with the United States and Germany. These do not generally contain any description of boundaries. Such of the Powers whose possessions bordered

on those of the Association, alone added to the Act of recognition certain provisions touching only that territory in which they were respectively interested; and presently Belgium, called upon to pronounce on the question of personal union, did likewise.

The first description of boundary lines is to be found in a map annexed to the agreement between the German Empire and the Congo International Association. In this agreement Germany expresses herself as ready to acknowledge the limits of the Association's territory as indicated on the map. The same agreement, providing especially for the cession of the Association's territory or part of it, present *or future*, adopted the general law principle relating to the transferee's subrogation to the transferor's rights and obligations.

The agreements between France and Portugal contain a description of respective limits: for France to up 17° E.; for Portugal, up to the Kwango. The agreement with Portugal likewise reproduces the provision concerning the transferee's subrogation to the transferor in the event of a complete or partial cession of the present or future territory of the Association. This last provision is common to the fourteen separate Agreements of that period with the exception of the agreement made with France.

At the sitting of the Berlin Conference on February 23, the President of the International Association notified the existence, among the clauses of the treaties recently concluded by the Association, « of a provision recognising its flag as the flag of a friendly State or Government. » At the request of some of the Plenipotentiaries—of several, according to the protocol—copies of the various treaties by which the International Association had been recognised

by these Governments, were annexed to the protocol of the sitting. These treaties were accordingly added to the Protocol N° 9, schedule I, under the heading : *Copies of various Treaties by which the International Congo Association has obtained recognition by the Governments.*

It is scarcely necessary to remark that this addition did not in any way modify the legal character of the said treaties, and above all that it did not—contrary to their very provisions—impose unalterable territorial limits on the Congo State.

In order to understand the impossibility of even attempting such a construction, it would be sufficient, to recall that the *sine qua non* of the Powers meeting in Berlin proposed by France and accepted by Germany, was that « the Conference should have nothing to do with the settling of territorial questions in the Congo basin (1). »

Shortly after the breaking up of the Berlin Conference, the Free State promulgated a General Declaration of Neutrality dated August 1, 1885, indicating the territory of the State to which, at that time, the conditions provided for by Art. 10 of the General Act of the Conference applied. This Declaration, after being submitted to Prince Bismarck, as we already mentioned, and after obtaining a letter of approval from him, was notified to all the Powers, who acknowledged it without any objection or reserve whatsoever.

Mutual convenience, subsequent explorations, reasons of a geographical or ethnographical order, have since

(1) Letter of the German Chargé d'affaires to Prince Bismarck, dated May 29, and Prince Bismarck's reply, dated June 5.

been the cause of certain modifications of the original territorial limits. The State made, on December 28, 1894, a further Declaration intended to bring into the zone of neutrality the whole territory as modified by fresh agreements with France—(April 29, 1887, and August 14, 1894), Portugal (May 25, 1891) and Great Britain (May 12, 1894). Like the Declaration of 1885, that of 1894 was duly notified to the Powers, and met with no objection.

The delimitation of the frontiers of the Free State thus definitely established, no further question of a territorial nature seems likely to arise. With France, Great Britain, Germany and Portugal further disputes hardly seem possible. The recent Kiwu incident between the Congo State and Germany does not appear in itself to constitute a frontier difficulty, the boundary in these parts being apparently determined. Germany indeed seems wishful to obtain the rectification of this frontier by substituting for it a natural limit. But, whatever reasons Germany might adduce to justify such a claim, it is quite conceivable that the Congo State should hesitate to comply, as it might thus compromise the principle of its territorial integrity.

The maintenance of their integrity is the first duty of States, but exchanges and arrangements giving satisfaction to both parties are quite feasible.

2. — TERRITORIES TAKEN ON LEASE.

Besides the State territories of which Leopold II. is Sovereign, he took on lease from Great Britain the

Bahr-el-Gazal territory up to 10° N., to be occupied and governed by him. Article 2 of the Treaty of May 12, 1894, decides the extent of this jurisdiction and the length of the lease, which is different according to the part of territory to which it applies.

Great Britain, on her side, by Art. 3 of this Treaty took on lease from the Congo Free State a strip of territory between Lakes Tanganika and Albert-Edward.

The agitation caused in Germany and France by the stipulations of the Treaty of May 12, 1894, can still be remembered. Germany raised objections to the lease of territory granted to Great-Britain and it is well known that by a declaration of June 22, 1894, the British and Congo Governments concurred in the withdrawal of Art. 3 of the Treaty in question. France refused to recognise the Congo State's rights as lessee, and by Article 4 of the Agreement of August 14, 1894, she decided to restrict, for herself, without stipulating for others, the political action of the State in the Nile basin to that portion commonly called *Enclave de Lado*. But since, by her Agreement with Great Britain of March 21, 1899, France has now abandoned all idea of penetrating the Nile basin, Article 4 of the Agreement of August 14, 1894 has merely an historical interest, and the respective rights of Great Britain and the Congo Free State in the Bahr-el-Gazal - sovereignty rights of the former, lessee's rights of the latter—remain such as they were established by the Treaty of May 12, 1894, which in point of law cannot be forthwith considered as having lost its value between the contracting parties.

3. — THE INCREASE OF TERRITORY.

At the time when the question of leased territories was creating excitement in France, an attempt was made in the French Parliament to prove that the boundaries of the Congo State were unchangeable, either by virtue of the Berlin Act or by reason of its declaration of neutrality. We know of no contention having a slighter foundation in international law. We have clearly shown that the Berlin Conference was unable to settle territorial questions which were intentionally excluded from its programme and that it is impossible, moreover, to attach to the formality above mentioned, any signification modifying the legal character and the true meaning of the treaties. Moreover, it is evident that the limits mentioned in the treaties between the interested parties were separative limits, directly, specially and locally connected with pending disputes or issues in view at the time, and not prohibitive of further acquisitions apart from these delimitations.

On the other hand, to contend that a voluntary declaration of neutrality, even permanent, applied to certain territories on the basis of Art. 10 of the Berlin Act, implied absolute renunciation of the right to acquire territory subsequently would be obviously giving Article 10 a meaning it cannot and was never intended to have, and it would amount at the same time to a perversion of the notion of neutrality. We believe that we have fully established in our « *La Neutralité de la Belgique* » that permanent neutrality even obligatorily guaranteed, does not exclude, in principle, acquisitions of new territories

by the neutral party, subject to a limitation of the guarantee to the original territory (1). But in the case of permanent neutralities, which are not even under these conditions, the question of prohibiting the acquisition of new territories by a State which has merely exercised the faculty of declaring itself neutral, seems one that can hardly be raised. The State may perfectly well undertake to fulfil all the obligations resulting from this special international *status*, without abdicating the right to increase its territory by additions properly acquired. And it might even, according to Art. 10 of the Berlin Act, relinquish this *status*, subject to giving up the benefit of it.

As a matter of fact, the Agreements show that the neutralized territories of the Congo Free State have since its origin actually undergone most important modifications without having called forth any international objections.

(1) *La Neutralité de la Belgique*, pp. 508 and *seq.*

CHAPTER IV.

Neutrality.

In an earlier work on « *La Neutralité de la Belgique* », we have already examined all the questions relating to the permanent Congolese neutrality and to its eventual combination with the permanent neutrality of Belgium. Thus we shall content ourselves here with giving a mere summary of the conclusions of that paper.

The German project, drawn up subsequent to Mr. Kasson's motion at the Berlin Conference, relates to the following points : Obligation for all the Powers, even those engaged in foreign conflicts, not to involve in any war the territories of the basin of the Congo subject to the convention ; obligation for all the Powers holding possessions in the basin, in case of differences relating to their possessions, to proceed to the settlement of such differences by way of mediation or of compulsory arbitration.

The opposition of two Powers themselves holding possessions in the Congo did not permit the adoption of this scheme ; but towards the end of the Conference Baron de Courcel, the French Ambassador, was able to re-open the question and to pave the way for its realisation.

Not that the Powers have neutralized any territory. They simply foresaw the issue of either occasional or perpetual declarations of neutrality concerning the territories of the Congo basin, and they undertook to respect the consequences of such declarations so long as the declaring Powers should perform the duties which neutrality entails.

This undertaking was assumed not only towards the declaring Powers, but also towards the other Signatory Powers. Consequently the claim can, if necessary, be made upon each and all of the Signatory Powers by the guaranteed State, and the action of these Powers, without being compulsory, is henceforth provided for and authorised.

Regarding the meaning of the term *neutrality*, Baron de Courcel declared that, according to his view, « neutrality should be taken in its proper and technical sense, namely as the position of a third party who refuses to take part in a struggle between two or more belligerents. »

The permanent neutrality of the Congo results from declarations made by the State under dates of August 1, 1885 and December 28, 1894, referred to in the preceding chapter. Such neutrality comes within the class of pure permanent neutralities, that is to say, which are not affected by any limitation of sovereignty other than the one resulting from the undertaking to observe neutrality as regards conflicts between other States.

At the same time it is a neutrality of free election, to the renunciation of which Article 10 alludes by determining the consequences which might ensue.

It does not, moreover, constitute the only guarantee of peace given by the Berlin Act to the territories of the reco-

gnised basin. In fact, as regards any serious differences which might arise within the limits of, or relative to these territories, the Powers undertook by Article 12, to have recourse at all times to mediation, and even provided for arbitration, insisting most particularly on the « great value » of these proceedings « to the rising Congo State, which all the Powers desire to protect with pacific guarantees. » And in respect to conflicts which have nothing to do with African possessions, the Powers agreed in Article 11 to lend their good offices in view of preventing these possessions from becoming a seat of warfare.

The following is the text of Articles 10, 11 and 12, forming Chapter III of the General Act of Berlin.

*Declaration relative to the neutrality of territories included
in the Conventional basin of the Congo.*

ART. 10. — In order to give a new guarantee of security to trade and industry, and to encourage by the maintenance of peace, the development of civilization in the countries mentioned in Article 1, and placed under the free-trade system, the High Signatory Parties to the present Act, and those who shall hereafter adopt it, bind themselves to respect the neutrality of the territories, or portions of territories, belonging to the said countries, comprising therein the territorial waters, so long as the Powers which exercise or shall exercise the rights of Sovereignty or Protectorate over those territories, using their option of proclaiming themselves neutral, shall fulfil the duties which neutrality requires.

ART. 11. — In case a Power exercising rights of Sovereignty or Protectorate in the countries mentioned in Article 1, and placed under the free-trade system, should be involved in

a war, then the High Signatory Parties to the present Act, and those who shall hereafter adopt it, bind themselves to lend their good offices in order that the territories belonging to this Power and comprised in the conventional free-trade zone shall by the common consent of this Power and of the other belligerent or belligerents, be placed during the war under the rule of neutrality, and considered as belonging to a non-belligerent State, the belligerents thenceforth abstaining from extending hostilities to the territories thus neutralized, and from using them as a basis for warlike operations.

ART. 12. — In case a serious disagreement originating on the subject of, or in the limits of, the territories mentioned in Article 1 and placed under the free-trade system, should arise between any Signatory Powers to the present Act, or the Powers which may become Parties to it, these Powers bind themselves before appealing to arms, to have recourse to the mediation of one or more of the friendly Powers.

In a similar case the same Powers reserve to themselves the option of having recourse to arbitration.

CHAPTER V.

Subjects under the jurisdiction.

We may here take a broad view of the position of persons under the jurisdiction including not only subjects proper but casual subjects, such as foreigners who also depend, in a certain sense only, on the territorial sovereignty. The great assimilation in the Congo of foreigners as subjects warrants us in so doing.

Subjects under jurisdiction must be classed, according to the rights they enjoy and the government rule applicable to them, in two main categories : Non-natives and natives. All non-natives, either foreigners or of Congolese nationality, enjoy all civil rights.

Regarding the natives, the Congolese Civil Code admits of a distinction which shows the first fruits of civilizing evolution by dividing the Congolese into two very distinct classes : Citizens and natives. Natives who prove themselves worthy to be raised above the masses by the Government, on account of their adaptation of their modes of life to those of Europeans, by general submission to Congolese laws, by an aptitude for co-operation in the working of certain public services, become *Citizens of the Realm*. They participate to a much larger extent than

do other natives in the manifold advantages arising from legislation and form with naturalized foreigners the elite of the Congolese population proper.

Article 6 of the Civil Code (1) refers in the following terms to the persons enjoying full civil rights :

« All civil rights shall be enjoyed by : 1. Individuals who have obtained naturalization ; 2. Natives, whose birth or whose recognition has been duly inscribed in the registers of the *État Civil* ; those who have had recourse to officers of the *État Civil* for the registration of their marriage ; those who have obtained their registration in the civilized population register by the public authorities. »

Article 7 contains furthermore the following rule concerning foreigners of European or assimilated civilization.

« The foreigner residing in the Congo Free State enjoys full civil rights.

» He is protected in his person and property in the same manner as are natural subjects. »

As regards natives—Congolese who are not *citizens*—they continue to be governed by their own local Chiefs, at least so far as this is compatible with public security and order.

Concerning Civil Jurisdiction, if either party to a suit be a non-native, or the State or a Public Department, the Court organized by the State is alone competent. On the other hand, even in the case of both parties being natives, if one of them appeals to the Court organized by the State, such Court may entertain the suit. (Decree of January 11, 1898.)

(1) LYCOPS, *Codes congolais et lois usuelles*, p. 162.

In matters of Criminal Jurisdiction, the principle is whoever commits an offence on State territory, must be punished in accordance with the penal laws enacted by the State. Albeit when the offence is committed by a native against another native, the Public Prosecutor is at liberty to abandon the prisoner to the application of native customs and to the jurisdiction of the local Chief. (Decree of April 27, 1889.)

Exception is made, however, in the case of offences against the slave-trade laws, which always come within the jurisdiction of the State Courts. (Decree of July 1, 1891, Art. 14.)

In conclusion, be it noted that Congolese law recognises not only individuals but also corporate bodies, and that their existence and rights are regulated by a very remarkable Code of civil and commercial laws drawn up to this end. In this connection, may be mentioned the Decree of December 28, 1888, on the incorporation of religious, scientific and philanthropic associations.

The native population of the Congo Free State belongs to a large extent to the Bantu race. It is unevenly spread over the whole territory, and is variously estimated to be from fourteen to thirty millions.

The numbers of residents of European or American nationality in the Congo are as follows :—Germans 63, Americans 30, British 98, Austrians 7, Belgians 1,465, Danish 29, Spanish 10, French 55, Greeks 5, Dutch 126, Italians 156, Luxemburgers 25, Norwegians 22, Portuguese 108, Russians 13, Swedish 105, Swiss 21, other nationalities 7, total 2,345.

CHAPTER VI.

The policy of the State.

Government in its simplest form is sovereignty in action. Policy is the science and art of Government.

The policy of the various States offers certain points of resemblance resulting from the conditions, in some respects common, imposed upon the government of men. Policy is differentiated according to the of the Government's varying ideas of the special conditions in which the society it has to control is placed. Governments are distinguished and politically classified by this fundamental conception and by the action they adopt to realize it.

The Government of the Congo Free State has to work under special conditions. Its field of action, its aims and objects, the ways and means to be employed in respect of the former and the latter, all contribute to give this Government a special character, and everything was at the outset calculated to surround its task with exceptional difficulties. Unaided by the fruits of experience in this unexplored and barbarous land, the government had to solve the difficult problem of the installation and maintenance of an organized State. The problem had to be solved under conditions which at first sight appeared to run counter to

colonial traditions, and rendered the self-supporting principle not a matter of convenience or prudent colonial policy, but a rule of vital necessity. The problem had further, to be solved without bringing into conflict certain elements which are difficult to harmonise, namely : the exigencies of commercial freedom as recognized by the conventions, the exigencies of the civilization of the natives and their material and moral improvement, the exigencies of the life and progress of the State itself considered as the organising force principle of the new political society, and finally the exigencies, or rather conditions, relating to the personal union of the Free State with Belgium.

In the accomplishment of this complex task, the State was first inspired with a scrupulous respect for international engagements. This principle was never lost sight of, even at the critical periods of its life following on the Berlin Conference when the enforced exemption from import duties weighed heavily upon its economic existence.

The State was also determined faithfully to respect the declaration of permanent neutrality which it made a short time after the Berlin Conference. As we have remarked elsewhere, this was an honourable obligation towards the Powers, who were thus reassured concerning the policy and pacific autonomy of the new State. It was also an act of prudence, which protected the Congo State from the solicitations of other States interested in influencing its political life (1).

(1) *Rapport au Sénat sur le régime des colonies et sur la révision de l'article 1^{er} de la Constitution*, 23 juillet 1893.

Neutrality, which formerly implied a state of passivity assumed in the hope, frequently precarious, of escaping the fury of belligerents, is certainly not considered nowadays as a negative condition. Neutrality no longer means immobility.

The principle of common peace and equal sovereignty to-day determines the basis, and regulates the limits, of the relations which exist between a State carrying on a war and States at peace with the world. Fruitful activity in the sphere of peaceful evolution is all the more legitimate for a permanently neutral State from the fact that war is not its function. This legitimate activity is in perfect harmony with the security to be loyally afforded to the other Powers by the neutral State in consequence of its special status.

While remaining faithful to the obligations of the conventions and those of permanent neutrality, the policy of the State has ever been to aid in civilization. This was clearly defined by its Sovereign in aiming at the moral improvement and gradual civilization and development of the natives. This object is being attained by the preservation of the native races; by defending them against such scourges as man hunting, slave-trading, the abuses resulting from the introduction of fire-arms and spirits; by the abolition of barbarous customs, such as cannibalism and human sacrifices; by the suppression of inter-tribal wars; by the gradual improvement of the material and moral conditions of existence of the black race *i. e.* by teaching the natives to work, by making them appreciate the rewards of labour, by protecting and helping them, and by seconding all efforts tending to their regeneration.

The State has learnt by experience how necessary the extension and development of sound government institutions are in carrying out its task. Its policy in this direction has had admirable and manifold results.

To accomplish properly such a duty both energy and material resources—men and money—are indispensable. Men are supplied in abundance from Belgium and especially from the Belgian army, while other countries also supply a quota of valuable workers.

As for material resources, the financial policy of the State, which was at first seriously hampered in its most productive sources of income, in consequence of a draconian system of import duties, encountered various difficulties which were overcome by the munificence of the Sovereign and the help of the Belgian Government. To-day the situation is easier, and Baron van Eetvelde, Minister of State for the Congo, in a letter to Count de Smet de Naeyer, dated March 28, 1901, expressed himself thus :—

« The convention concluded in 1890 between Belgium and the Congo Free State expired on the 18th February last. It has rendered the Free State the greatest services gratefully acknowledged by the latter, for the progress made, thanks to the financial help of Belgium, is such that the renewal of the convention is no longer necessary. The Congo Government can give no better testimony to the successful results obtained than by declaring that it ceases to appeal for any pecuniary aid from Belgium. »

The limited nature of the resources of which the authorities dispose, and the greatness of their needs, compel them to be careful of the public money. But the policy of

the State, although economical, is certainly not parsimonious.

When the advantages of a given undertaking in the Congo are once demonstrated, money is always forthcoming to carry it out successfully. Sometimes private initiative, encouraged by the State, accepts the task : such was the case with the Congo railway. In other instances the State itself takes the initiative, as in the case of the Great Lakes railway ; in every case public interests—and that is the great point,—receive satisfaction.

We have just seen how the policy of the State tends to improve means of communication and especially the railways which are so important for the development of Africa's natural wealth and the general advance of civilization.

Turning to account the natural wealth of the country is also one of the first cares of the State and inspires a number of typical measures of its policy. The State fully realizes that if trade in men is to be stopped, trade in goods must be encouraged.

Measures tending to utilize the inexhaustible resources of equatorial Africa are a valuable assistance from this point of view. They promote at the same time the ultimate object of colonization which, far from excluding the legitimate interests of colonizing agencies, or setting them up against the interests of the colonized regions, harmonises them in such a manner that both are benefited.

And because the work of civilization is immense, the policy of the State is to welcome the help of all private enterprises, calculated to further its mighty task, provided they comply with the laws of the land. Commerce, as

representing material influences, and missions as representing moral effort, work thus side by side under the aegis of the State.

The growth of the import and export trade is evidence of economic and commercial prosperity.

The increase in the number of mission stations of various sects proves the happy results which the protection of religious and christian influences by the State have brought about.

The State, ever mindful of its early days, never misses an opportunity of aiding or undertaking scientific enterprises tending to a wider knowledge of the African continent.

The policy of the State, while loyally observing its obligations towards foreigners, never loses sight of the special ties connecting the Congo with Belgium, nor of the participation by the latter in the benefits accruing from the colonization of a country to which it has in no small measure contributed.

In its exertions to solve the various problems of its mission, the State does not claim to be either infallible or impeccable. Let him who can claim to be so in colonial matters cast the first stone! Doing its utmost to suppress crime amid surroundings which, from their very nature, must sometimes necessarily render its best efforts unavailing, the Government of the Congo Free State can never rightly be held responsible for the offences of individuals.

To avoid errors and misunderstandings the State endeavours, as far as the special conditions of its task will allow, to profit by the experience of other colonising nations. British and Dutch colonisation are often its

chosen models. It imitates these experienced colonisers without, however, expecting to obtain at once such perfect results as theirs and without following them blindly. Neither does it obstinately persist in employing methods proved to be defective when other methods are practicable. But it is sometimes difficult to effect reforms with the stroke of a pen, and in such cases, the Congo Government must needs content itself with *partial and progressive improvements*. Its policy is essentially a policy of *methodical experiment and practical adaptation*. Even when colonial science is more advanced than it is to-day, that policy will retain its *raison d'être* and will still preserve its merits.

CHAPTER VII.

Legislation.

Law is the sovereign act, the act regulating common life for the common welfare.

In colonizing countries, it has long been recognized that the laws of a colony must be adapted to its special circumstances and that the legislation of the mother country is not always practicable, however good it may be in itself. England, the leading country in the art of colonization, without relinquishing the right of her Parliament to legislate for all lands dependent on the British Crown, has for a long time past, in the case of her Crown Colonies, delegated this function to the King and to his subordinates, the Governors or High Commissioners. Moreover she has succeeded in submitting to this same system the colonies whose social conditions do not allow of local representative institutions (1).

In the Congo Free State, reasons inherent in the very nature of the power, combined with motives of expediency

(1) See for the *Straits Settlements* (1886), 20 and 30 Vict. Chap. 113, and for the other colonies without representative institutions *British Settlements Act* (1887), 50 and 51 Vict. Chap. 54.

universally recognised as justifiable, make this practice necessary.

If we seek the main features of the Congolese legislative system, we find that it is characterized by the following qualities : unity, celerity and adaptability.

Unity is ensured by the fact that the Sovereign combines in himself both the initiative and the final decision in all matters of legislation.

And from this same unity celerity results for the legislative Sovereignty not being split up into divers branches, the law is an instrument always at hand which the Sovereign can use when necessity arises, without the slightest delay.

Adaptability is the outcome, in the first place, of the Founder-Sovereign's perfect comprehension of the needs of his people and, in the second, of the close connection which exists between local and central authorities, for the latter, being thus constantly kept aware of all that is taking place, are thereby enabled to adopt their policy to the actual requirements of current events.

The due administration of the law in regard to details connected with the technicalities of administration is moreover assured by means of certain supplementary regulations which, as we shall see later on, the Secretary of State in Brussels and the Governor General in the Congo are empowered to make under the form of by-laws.

In conclusion, we would call attention to two consultative bodies : —the *Conseil supérieur de l'État indépendant du Congo* and the *Comité consultatif*. The first is attached to the Sovereign in Europe and its functions are defined in the Decree of April 16, 1889 ; the second, to

the Governor-General in the Congo, who is bound, by the Decree of April 16, 1887, to consult this Committee on all measures of public interest which he may deem expedient to adopt or to submit to the central Government. Each of them is similarly constituted and performs similar functions to the auxiliary legislative and administrative Councils often attached to the Governors or High Commissioners of certain English colonies, and as the powers with which they are invested are purely advisory, they can never impede legislative action, but, on the contrary, tend to facilitate it.

The regulating Acts which emanate from the King-Sovereign are called Decrees. They must be countersigned by the Secretary of State, in virtue of the Decree of September 1, 1894 (1).

The publication of official Acts is regulated by the Decree of January 16, 1886, the scope of which has been defined and developed by a second Decree dated January 5, 1899.

The power of issuing orders entrusted to the Governor is regulated as follows by the Decree of April 16, 1887, Article 6 :

« The Governor-General may issue orders having the effect of

(1) They are issued in the following form :—

Leopold II., King of the Belgians :
Sovereign of the Congo Free State
To all present and to come : Greeting
By the advice of our Secretary of State,
We have decreed and do decree...
Given at... , this... day of...
LEOPOLD.

By the Sovereign-King :
The Secretary of State,

law. He may also, in urgent cases, suspend by an order the execution of a decree of the Sovereign.

» These orders shall not remain in force after the expiration of six months, if they have not been approved by Us during that interval.

» He cannot, however, without Our express authorization, negotiate any loan in the State's name, nor assume any obligations towards foreign countries. »

From this it results that, apart from the restrictions specified in the third paragraph of this article, the Governor-General can legislate on all matters, including even such as are not dealt with by decree, and that in cases of urgency he can suspend the execution of an existing decree.

Nothing is said in Article 6 as to the right of the Governor-General to introduce, by order, modifications of a decree; but it has been interpreted, conformably to the spirit of said enactment, in the sense that the Governor-General is just as entitled to modify a decree as he is to suspend the same.

A rapid glance at the whole of the Congo laws is sufficient to show that the legislative power is exercised in a remarkable manner in all departments of legislation (1).

I. *Civil legislation.* — The Civil law comprises a codification of the laws relating to persons (Decree of May 4, 1895) which include ordinances concerning nationality, the enjoyment of civil rights, the certificates of « État Civil », absence, marriage, divorce and separation, filiation, adoption, paternal autho

(1) See LYCOPS, *Codes congolais et lois usuelles en vigueur au Congo*, collationnés d'après les textes officiels et annotés. Bruxelles, 1900. — CATTIER, *Droit et administration de l'Etat indépendant du Congo*. Bruxelles, 1898. — PIERANTONI (Ricardo), *Le Traité de Berlin et l'Etat indépendant du Congo*, trad. française. Paris, 1901.

rity, emancipation, majority, guardianship and the privation of civil rights. These provisions are as a rule adapted from the Code Napoleon, which is in force in Belgium, subject to certain modifications which have been introduced to meet the requirements of local conditions. They concern, for the most part, nationality, the enjoyment of civil rights, marriage and guardianship. We have already indicated in the chapter on « Subjects under the jurisdiction » the ordinances relating to the enjoyment of civil rights. The capacity to contract marriage exists from the age of 12 and 14 years (Art. 96). The principle of monogamy is safeguarded (Art. 101). Guardianship assumes a distinct character as an institution of public law, and the position of the magistrate is strengthened.

The Civil law of the Congo further contains a complete codification of the Legislation on *obligations and contracts* (Decree of July 30, 1888). Article 409 of that decree provides that hiring or contract of service between negroes and non-natives shall be regulated by a special law. This legislation is laid down in the decree of November 8, 1888. The idea which guided the legislator in drawing up this remarkable document, the text of which will be found below, is the idea of protecting the weak.

The question of succession has not been generally dealt with. For the natives this matter is regulated by custom. For non-natives the question of inheritance is practically regulated by the national law of the deceased person. With respect to the process of liquidation, a Decree of December 28, 1888, concerning the successions of foreigners dying in the Congo State without heirs or executors, provides certain protective measures. Moreover a series of protective orders regulates the liquidation of the estate of non-natives, be they agents of the State or not (Orders of July 31, 1891, November 15, 1895, March 26, 1896, July 13, 1897).

There are no orders relating to mortgage. The Decree of January 27, 1896, establishes fixed and proportional fees on mortgage debts. The Government is anxious to deal with the matter which will undoubtedly be settled before long. In the meantime recourse must be had to the general rules of

land tenure. Mortgage debts must be registered; they are mentioned on the back of the title deed and on the registration certificate. To enforce his rights, the mortgagee may have recourse to the Order of November 12, 1886, on the attachment of real estate. The law concerning liens, like that in respect to mortgages, remains to be completed; the Decree of April 15, 1896, relative to preferential creditors being the only legal instrument which deals with this matter.

II. *Legislation on land, forests and mines.* — To these ordinances, which are intimately bound up with colonial law we shall devote a special chapter.

III. *Commercial and industrial legislation.* — In this connection we will refer to the Order of December 21, 1886, on bankruptcies, approved by the Decree of March 18, 1897.

The Decree of February 27, 1887, on commercial Companies, one of the first issued, is in more than one respect incomplete. A scheme has been drawn up to modify and complete it.

We may further mention the Decree of October 16, 1896, on commercial caravans travelling in the interior. The main purpose of this decree is to prevent any attempt on the individual liberty of the natives.

In the matter of industrial law, legislative Acts were passed concerning patents (Decree of October 29 and Order of October 30, 1886) and affecting trade marks (Decree of April 26 and Orders of April 27 and May 19, 1886).

IV. *Notarial legislation.* — The Order of July 12, 1886, regulates the manner in which Notarial Acts are to be authenticated by the notaries in the Congo. Such Acts « are enforceable throughout the whole territory of the Congo Free State and are to be accepted as conclusive evidence before the Courts unless there exist written proof to the contrary. » There are 26 notarial offices in the Congo.

V. *Legislation on the incorporation of Societies.* — Religious, scientific and philanthropic Societies may be incorporated under the conditions laid down by the Decree of December 28, 1888.

VI. *Legislation on private International law.* — This matter is

dealt with at length and in a very remarkable manner in the Decree of February 20, 1891, which is inserted in the Civil Code (Art. 7 et seq.).

VII. *Criminal legislation.* — The Order of the Secretary of State of December 19, 1896, issued in compliance with the Decree of December 2, of the same year, has consolidated the various provisions of criminal law existing at that time.

The Penal Code, thus consolidated, is divided into two books.

Book I is headed : *Infractions and Repression thereof in general.* The Congo Penal Code has abandoned the threefold division of « crimes, offences and contraventions » in order to preserve only the general denomination of « Infraction, » which includes every infringement of the criminal law.

According to Article 87, the punishments provided for infractions are : Death, penal servitude, fine and special confiscation.

All convicts, says Article 89, who have been sentenced to penal servitude, shall undergo such punishment in the prisons of the State *viz.* : the natives are imprisoned in common and non-natives in separate cells. They shall be employed, either within the prison walls or out of doors, at one of the works authorized by the prison regulations or determined by the Governor-General, unless they have been specially dispensed from labour by the Governor-General. »

Constantly actuated by a desire to protect the natives, the legislator has taken special steps in order to insure redress and compensation for wrongs done to them. Article 95 of Book I of the Penal Code says : « The Court shall fix the amount of the damages. When the injured party is a native, the Court has power to order such restitution and damages as may be due according to local customs. »

The Decree of December 2, 1896, which has been incorporated in the Penal Code (Art. 112 to 119 of book I, has introduced into the Congo legislation the principle of « the conditional release of convicts. »

Book II, *On infractions and repression thereof in particular,* deals rather unsystematically with a considerable number of

subjects. The legislator must not be criticized on this account, because, in a new State like the Congo, it is not possible to frame all at once a complete Code of criminal laws. Such a code must needs be built up gradually according to the requirements of the moment. The provisions consolidated in virtue of the Order of December 19, 1896, and forming Book II of the Code, are far from containing all the enactments of criminal law in force at the present day.

Among those that are omitted, some have been promulgated since that date, while others are contained in special decrees ordinances, or orders.

The following articles in the codified part of the penal law are especially worthy of notice : Art. 6, § 4, the purport of which is to check the barbarous custom, an excessively dangerous form of trial by ordeal, called N' Kassa ; Art. 6, § 6, punishes cannibalism ; and Articles 11 to 13 punish attempts against individual freedom.

In the non-codified part of the penal legislation, we would call attention to the Decree of July 1, 1891, concerning the repression of the slave-trade and the numerous provisions concerning offences against the law on the importation of arms and spirits. These three points have been dealt with on the lines laid down by the Conferences of Brussels and Berlin.

The Decrees of December 22, 1888, November 24, 1890 and December 1, 1897, are likewise worthy of notice ; they form the 29 articles of the Military Penal Code.

VII. *Legislation relating to procedure.* — A series of decrees and orders serves the purpose of a Code of civil and commercial procedure and of a Code of criminal procedure. We shall explain them when dealing with the judicial organization.

VIII. *Legislation respecting public law, administrative law and judicial law.* — We have just pointed out the foundations of the Congo private law and penal law. In the following chapters we shall deal with the principal rules of the administrative and judicial public law.

The legislation outlined above is neither perfect nor

complete. Earlier legislation, the result of legal development during centuries was not free from gaps. We must not expect from youth the experience of old age.

It will be interesting to note how in the Congo these inevitable gaps in legislation are filled up by judges who have to apply the law to cases as they arise.

An Order of May 14, 1886, forming to-day a sort of preliminary Chapter of the Civil Code, contains the following provisions :—

« ART. 1. — When the matter in dispute has not been dealt with by a decree or an order already promulgated, the cases which are within the cognizance of the Congo Courts shall be decided according to local customs and general principles of law and justice.

» ART. 2. — When the settlement of a dispute involves the application of a local custom, the judge may take the opinion of one or more natives or non-natives, chosen among the most capable people of the place. »

Thus the legislator compels the judge to fill up the gaps in the written law by ordering him to apply in such cases local customs and the general principles of law, *viz* : the legal rules generally recognised in the legislation of civilized nations, and also equity, *viz* : the natural light of reason which dictates the rules of justice independently of all written law.

The application of the leading principles formulated by the Order of May 14, 1886, has given rise to a series of decisions (1). The tendency of the Congolese Courts is to apply the Belgian law in cases which are not met by the

(1) See particularly : *Jurisprudence de l'État indépendant du Congo*, par LYCOPS et TOUCHARD, pp. 50 and 68.

Congo law, because the judge considers the Belgian law to be the expression of the general principles of law and to be the prime source of most of the Congolese law (1). This opinion has been concurred in by the Government on several occasions. Thus in his report to the King-Sovereign, in 1891, the Secretary of State (then Administrator General) said : « In matters not yet dealt with by regulations, the judges are guided by the general principles of Belgian law and by local customs, when such customs do not conflict with the main principles of order and civilization. »

Moreover this view has been upheld by foreign decisions. An English Court having to decide whether it was necessary to obtain probate in England of a will made in the Congo according to Belgian forms (a holographic will), ruled that it was necessary, because, « in the absence of any Congolese law on the matter, the general principles of law and equity were to be applied and because the Congolese judges would, in such case, apply the principles of Belgian law as being the general principles of law and equity. »

(1) *Id.*, *IBID.*, pp. 44 and 92. Judgment of the « Conseil d'appel de Boma » of May 4, 1897, and judgment of the « Tribunal d'appel de Boma » of September 11, 1900.

CHAPTER VIII.

The Administration.

The duty of the administration is to provide for the execution of the laws and for regulations affecting the community.

The subordinate officials of the Sovereign in his governmental function are divided into two groups: the first constitutes the Central Government, residing in Brussels, the second constitutes the Government established in the Congo. The head of the former is the Secretary of State; the head of the latter is the Governor-General.

I.

The Central Government.

The Central Government includes one Secretary of State, three Secretaries General, at the head of the three administrative Departments, a Treasurer General, a Chief of the Office of the Secretary of State, and sundry officials.

A *Conseil supérieur* of the Congo Free State is established at the seat of the Central Government, besides which, there are in Brussels several institutions and auxiliary services of which we will speak later.

1. — THE SECRETARY OF STATE.

A Decree of September 1, 1894, concerning the Central Government has substituted a Decree of October 13, 1885. It reads as follows :—

« ART. 1. — The Central Government is placed under the direction of a Secretary of State appointed by Us. 1. He countersigns and carries out the orders of the King-Sovereign.

» ART. 2. — The Secretary of State is assisted, in addition to the Chief of his Office, by a Treasurer General and three Secretaries General, appointed by Us. The duties of these officials, in so far as they have not been defined by Us, shall be regulated by the Secretary of State. He may, at his discretion, delegate to these officials any part of his administrative powers.

» ART. 3. — The Secretary of State regulates the organization and the duties of the various Departments of the Central Government. He appoints the officials up to the rank of Head-Clerk. He fixes their salaries within the limits of the Budget provided by Us. »

2. — THE THREE DEPARTMENTS (2. — THE TREASURY.

The Decree of the Central Government, issued by the Secretary of State on October 10, 1894, includes the following provisions.

« ART. 1. — The Central Government includes, in addition to the

(1) By Order of the King-Sovereign, Baron van Eetvelde has taken charge, at the date of the Decree, of the supreme direction of all the Departments of the Central Government. (*Bulletin officiel*, October, 1894.)

(2) The Secretaries General of the three Departments are : M. le Chevalier de Cuvelier (Foreign Affairs and Justice), M. Droogmans (Finance) and M. Liebrechts (Interior). The Treasurer General is M. Pochez. The Comptroller General is M. Arnold. The Chief of the Secretary-General's Office is M. Baerts.

Office of the Secretary of State, the General Treasury, the Departments of Foreign Affairs, Finance and Interior, respectively administered under the chief direction and control of the Secretary of State, by a Treasurer General and three Secretaries General, appointed by the King-Sovereign.

» ART. 2. — The duties of these officials are defined as follows :—

» *Treasurer general.*

» General Audit of income and expenditure of the State; Public Debt, service of the Treasury. »

» *Secretary General for Foreign Affairs.*

» International relations, Diplomatic and Consular service; extradition, « civil status, » successions, etc. of foreigners, harbours and roadsteads, trading companies, immigration, posts and telegraphs, judicial organization, civil, commercial and penal legislation, charity, public worship and education.

» *Secretary General of Finance.*

» General budget of the State, assessment and collection of taxes and duties of all kinds, commercial and monetary questions and statistics, home and foreign trade, land system, surveys, mortgages, State domain, Congo railway concession, mines.

» *Secretary General for Home Affairs.*

» Administration and police of the provinces and districts, public military force, ammunition and arms, State navy, transport service, scientific collections, public health, medical service, roads and communications, commissariat, public works, building, maintenance and furniture of the State buildings, agriculture, industry and plantations, private domain of the State.

» ART. 3. — The Treasurer General and the Secretaries General insure the progress of the various services placed under their direction, according to the general instructions given to them by the Secretary of State.

» They refer to the Secretary of State by a written report, whenever business arises involving new principles, or on which the orders of the King-Sovereign must be taken. They refer to him in every case involving the modification or interpretation

of the orders, regulations or written instructions issued by the Central Government or the Governor General.

» ART. 9. — The Treasurer General has supervision over the services of the general accounts and treasury, under the direct authority of the Secretary of State and according the Decree of October 6, 1885.

» ART. 14. — An official bearing the title of « Chief of the Office » is placed at the head of the office of the Secretary of State. He is under the direct control of the Secretary of State. »

An Order issued by the Secretary of State under date of April 16, 1896, creates a special service for controlling the receipts and expenditure of the Central Administration.

An Order of February 14, 1901, relating to this service, contains the following provisions :—

« ART. 1. — The service of control of the receipts and expenditure of the State budget, established by the Order of April 16, 1896, is placed under the supervision of a Director appointed by the King-Sovereign.

» ART. 3. — No payment for which the State is liable shall be made by the Treasury except on the production of an order issued by the competent service and bearing the signature of the Control.

» ART. 5. — The controlling service shall take special care that all sums either due to, or intended for the State be paid without delay into the Treasury. It shall apply for, all necessary information to that effect. It shall determine to which headings of receipts the payments made refer. »

The staff of the various offices completes the list of the officials composing the Central Government. The subdivisions of the departments and the work in the various offices are regulated by articles 18 and *seq.* of the Order of October 10, 1894.

3. — THE SUPREME COUNCIL OF THE CONGO FREE STATE.

There is a Supreme Council of the Congo Free State connected with the Central Government in Belgium; it was established by the Decree of April 16, 1889, the provisions of which are as follows :—

« ART. 1. — A supreme Court, the seat of which is in Brussels, is instituted under the name of « The Supreme Council. »

» ART. 2. — The Supreme Council, as Cour de Cassation, shall take cognizance of appeals lodged against all final decisions in civil and commercial matters.

» Such appeal must be based upon infringements of private law or of international law, or upon nonobservance of formal rules, either substantial or prescribed, under penalty of the proceedings being null and void.

» In the case of the former decision being quashed, the Council shall decide the case upon its merits.

» ART. 3. — In civil and commercial matters, when the amount in dispute exceeds 25,000 francs, the Supreme Council shall take cognizance of the appeals lodged against decisions delivered by the Court of Appeal at Boma.

[In criminal matters the Supreme Council shall take cognizance of any offences committed by the judges and officers of the public prosecutor according to articles 57 and 58 of the Decree of April 27, 1889. Decree of October 8, 1890.]

» ART. 4. — The Supreme Council is composed of a President, Councillors, Assessors and a Secretary, all appointed by Us.

» The Secretary and the Assessors have no deliberative vote.

» The duties of the Assessors shall be to report on the matters brought before the Council.

» ART. 5. — Except in special cases where a larger number of Councillors might be required by Us, decisions shall be delivered by five Councillors in case of Article 2, and by three Councillors in case of Article 3.

» No Councillor may be called upon to decide upon an appeal

lodged against a decision in a case in which he formerly sat.

» ART. 6. — The members of the Supreme Council shall give their opinion upon all questions about which We may deem fit to consult them.

» ART. 7. — Instructions as to the form of procedure to be adopted before the Supreme Council and as to the manner in which this Council shall exercise its functions will be issued in subsequent decrees. »

The instructions which Article 7 had in view, are contained in the Decree of October 8, 1890, in the Decree of March 24, 1893, which instituted a Permanent Committee within the Council, and in the Order of July 2, 1898, whereby a Registrar's office was created for the same body.

4. — THE AUXILIARY INSTITUTIONS LOCATED IN BELGIUM.

As institutions distinct from the Government, but being auxiliaries of the Government Departments, must be mentioned: the « Savings Bank » (*Caisse d'épargne*) established by Decree of December 9, 1891, also the *Congo Museum* at Tervueren, which, according to a Decree of December 3, 1902, is to be reconstructed and enlarged; the *Red-Cross Society for the Congo and Africa*, established by Decree of December 31, 1888, and recognized in 1889 by the Central Committee of Geneva.

II.

The Government in the Congo.

The seat of the Government in the Congo is at Boma. It is placed under the superintendence of a Governor-General.

The Government in the Congo was organized by Decree of April 16, 1887, modified by the Decrees of June 22, 1889, and February 28, 1890.

1. — THE GOVERNOR-GENERAL.

The Governor-General is appointed by the Sovereign as his personal representative to administer the territory. He exercises his functions under the supervision of the Central Government, but with the freedom of action rendered necessary by his residence in the heart of the country which he governs. Article 1 of the fundamental Decree thus defines the character and principal duty of the Governor-General :—

« The Governor-General represents the sovereign authority in the territory of the State. It is his duty to administer the country, and to carry out the measures decided upon by the Central Government.

» The Governor-General has the supreme control over all the administrative departments and military services established in the State. »

Under Article 6 of the fundamental Decree, the Governor has power to issue Decrees or Ordinances subject to the conditions above mentioned.

Under Article 7 he is invested with the power of making regulations alike in administrative matters and in matters of police, which power is defined as follows :—

« The Governor-General is further empowered to issue police regulations and rules concerning all matters of Public administration.

He may make them binding under penalty of imprisonment

for not more than seven days and of a fine not exceeding 200 francs.

In the following chapter we will examine the functions of the Governor in matters of police. The powers conferred on him by Article 7 are exercised in the form of decisions. Unlike the Orders, the decisions are enforceable without the approbation of the Sovereign being necessary.

The principal assistants to the Governor in the Government in the Congo are appointed by the Sovereign, but, according to Article 4, the Governor has the right, in case of necessity, to fill provisionally the vacancies occurring on his staff.

Under Article 5 of the fundamental Decree, the Governor-General is also authorized, if he should deem it useful for the good administration of the country, to commission, for a maximum of one year, an official intrusted with the inspection or the administration of a part of the State territory. A commission must state the extent and term of the powers so deputed to this functionary by the Governor-General. The right of the Governor to confide special missions connected with his functions and the requirements of the Government in the Congo is, in all respects, of a general character.

In case of the absence or incapacity of the Governor, Article 8 of the fundamental Decree provides for a system of Acting-Governors,—so as always to secure for the administration the presence of a chief.

The Sovereign may appoint a Vice-Governor, either to assist the head of the Government in the Congo, or to act as Governor-General.

2. — STATE INSPECTOR. —
THE SECRETARY GENERAL'S OFFICE.
DIRECTORS' DEPARTMENTS.

In addition to the Vice-Governor, the Governor-General is, by virtue of Article 2 of the fundamental Decree, assisted by a State Inspector, a Secretary-General and one or more Directors, all of whom are appointed and dismissed by Decree. So far as the duties of such functionaries are not determined by a Decree, they are regulated by the Governor-General.

The title of State Inspector and that of Commissioner-General are sometimes bestowed upon various officials, by way of rank in the administrative hierarchy, without modification or specification of their duties.

There are seven Directors' departments, *viz.* :—

Director of the Department of Justice ;

- » of Conveyances, Marine and Public-Works ;
- » of Intendancy ;
- » of Agriculture and Industry ;
- » of Defensive Works ;
- » of the Public Force ;
- » of Finance.

The State officials in the Congo are 1,272 in number.

3. — THE ADVISORY COMMITTEE.

The organisation of an Advisory Committee appointed by the Governor and working under his presidency, is thus provided for by Articles 9 and 10 of the fundamental Decree :—

« ART. 9. — An « Advisory Committee » under the presi-

dency of the Governor-General is hereby instituted. It shall consist of the following members, *viz.* :—

» The Vice-Governor-General, the State Inspector, the Judge of Appeal, the Secretary-General, the Directors, the Registrar of land titles and sundry other members, not exceeding five in number, to be appointed for one year only by the Governor-General. In the absence of the Governor-General, or, if he be otherwise prevented from attending, the Presidency over the Committee devolves on his representative, whom failing, on the President of the « Executive Committee. »

» ART. 10. — The Governor-General shall take the advice of the aforesaid Committee on all matters of general interest requiring to be dealt with, or, which it may be necessary to refer to the Central Government, but, in neither case, shall he be bound to follow it. »

4. — THE DISTRICT-COMMISSIONERS.

The general division of the territory, from an administrative point of view, has the district for basis. At the head of each of these administrative divisions is a District-commissioner. Article 3 of the fundamental Decree refers to this matter in the following terms :—

« District-commissioners represent the general administration of the State within the boundaries of their respective districts.

» Their duties, in so far as they are not determined by decrees or orders of the Central Government, are laid down by the Governor-General.

» The District-commissioners and other officials of the State, when they have not received their appointment from the Central Government, are appointed by the Governor-General.

» The respective residences of these officials are designated by the Governor-General.

» — By a Decree of July 17, 1895, the territory was divided into fifteen districts, *viz.* : 1. Banana ; 2. Boma ; 3. Matadi ;

4. the Falls; 5. East Kwango; 6. Kassai; 7. Lualaba; 8. Stanley-Pool; 9. Lake Leopold II.; 10. the Equator; 11. the Bangalas; 12. the Aruwimi; 13. the Ubanghi; 14. Stanley-Falls; 15. Uele.

» Since then, various changes have been made in this original division.

» The Lualaba and Kassai have been united and now form a single district.

» Since July 15, 1898, the District of Stanley-Falls has become the Eastern-Province; by the circular of December 23, 1900, it was divided into five administrative zones, called respectively Stanley-Falls, Upper-Ituri, Ponthierville, Manyema and Tanganyika; and of the zones several have recently been divided into sectors for the purpose of economic administration.

» The District of Uele has also been divided into five zones: Rubi-Uele, Uele-Bomu, Makua, Makraka, Lado.

» Moreover there is a circumscription called simply « territory » Ruzizi-Kivu. »

The District-commissioner centralizes the administration in the territory under his control. He attends to the execution of the decrees, orders, instructions and ordinances of both the Governments in Brussels and in the Congo. His general duty consists in improving the effective occupation of his district, consolidating the authority of the State and instructing the native population as to the civilizing objects which the Government has in view. Moreover he is required, at stated intervals, to furnish reports to the Governor.

The administration of the country, the protection of non-natives, the civilization of the natives are matters which also claim the District-commissioner's attention. Later on, in treating of the Police, we shall emphasize his rôle in the maintenance of order. Amongst subjects to which his careful attention should be specially directed, the

instructions point out the personnel of the stations and the intercourse with the commanders of stations, the recruitment for the public-force, the economical system, the protection of missions, the help to be afforded to private persons or to companies, and the observation of their conduct; the protective measures on behalf of the negroes and the suppression of barbarous practices; the colonies of native children; the execution of the decrees and orders concerning slave-trading, arms, spirits, etc.

5. — HEADS OF ZONES. — COMMANDERS OF STATIONS. —
COMMANDERS OF SPECIAL MISSIONS.

If there be heads of zones in a district, they must exercise their powers in accordance with the instructions of the Government, under the control and authority of the District-commissioner.

The Commanders of stations are required to observe the general regulations in force in the State and may not undertake anything beyond the programme fixed for them by the District-commissioner on whom they are dependent, unless they have previously obtained his express authority to do so.

The relations which exist between the commanders of special missions and the District-commissioners may vary according to the character of the said mission, but as a general rule their interference in politics must be avoided.

At the present time, there are in the Congo, 251 posts and stations besides 70 agricultural and cattle breeding stations.

« Let the agents and Government officials of each district

direct their best endeavours to the realization of the programme laid down by the Commissioner of their district. »
—Such are the Instructions on the subject.

6. — SPECIAL ADMINISTRATIVE SERVICES.

Besides the general administration proper, there are as many special services as experience has shown to be necessary to meet the various administrative requirements. These are chiefly of a technical kind. The sanitary service, for example, the service for the registration of land titles, the postal service, etc.

The sanitary service comprises, more particularly, 27 medical officers, 20 sanitary Commissions and 6 establishments for the production of vaccine-lymph.

7. — THE NATIVE CHIEFTAINCIES. — THE RESIDENTS.

The institution of native chieftaincies tends to strengthen the ties which bind the natives to the State, to consolidate the authority of the Government over the populations, to prepare their moral and physical transformation and to lessen the difficulty of obtaining supply of native labourers for regular public works. The decentralization of power thereby produced in certain respects is counter-balanced by the closer relations which are thus formed between District-commissioners and chieftains, and by appointing residents with the latter after the manner of the Dutch.

The manner of instituting native chieftaincies and the

regulations by which they are governed are thus broadly outlined in the Decree of October 6, 1891 :—

« ART. 1. — In certain regions, determined by the Governor-General, the native chiefdoms will be acknowledged as such, provided their chiefs have been confirmed in the authority attributed to them by custom, either by the Governor-General, or by some other authorised person acting in his name.

» ART. 2. — Letters of investiture must be drawn up in duplicate in the form of official Memoranda; of these, one copy shall be handed to the acknowledged chief, and the other filed in the records of the Government in the Congo.

» ART. 3. — The District-commissioners will draw up lists of the yearly tribute to be furnished by the native chiefs.

» ART. 4. — The native chiefs will exercise their authority in accordance with local usage and custom, provided the same be not contrary to public order, and in accordance with the laws of the State. They will be under the authority and superintendence of the District-commissioners or their delegates. »

The number of native chiefs who have obtained recognition up to the present, amounts to 258.

The institution of residents dates from the promulgation of the Decree of January 29, 1892, which runs as follows :—

« ART. 1. — These functionaries represent the authority of the State with the native chiefs; they perform their duties in accordance with a commission handed to them by the Governor-General or his delegate, and act within the limits of the territory submitted to the authority of the native chief.

» ART. 2. — The residents are appointed by the Sovereign.

» ART. 3. — They perform, within the territorial limits mentioned in Article 1, the duties of Judge of the Court-martial, and of Police Magistrate. »

It may be well to add that appointments of this kind are very rare. As a rule, all matters in connection with native chiefs devolve on the District-commissioners.

CHAPTER IX.

The Police.

The duties of the police consist in maintaining social order.

When these are performed by wise measures calculated to prevent or instantly to check disturbances of social life, the Police Force becomes the assistant of the Administration. It provides for the maintenance of order in the same way as the Government seeks to further the interests of the community in general; and in this capacity is styled the administrative police.

When it endeavours to re-establish order by tracking those who have been guilty of a breach of the law and handing them over to the Courts, it is the auxiliary of justice, and for this reason is styled the judicial police.

1. — THE ADMINISTRATIVE POLICE.

The duty of maintaining order throughout the country, in all respects, whether relating to persons or things, is delegated by the Sovereign to the Governor-General, subject of course to the obligation of conforming to the decrees, orders and instructions emanating from the sovereign authority.

The police duties, entrusted to the vigilance of the Governor, are as important as they are varied. The security of the State, the public peace, the sanitary supervision,

the protection of persons and things, security in business transactions, the peaceable use of advantages common to all, the respect of public order in every branch of social activity : all these matters claim his attention.

The action of the Governor in this regard manifests itself in a double form : sometimes he issues general regulations, sometimes he publishes special decrees.

In addition to the power to issue edicts under all circumstances, conferred to him by Article 6 of the Decree organizing the Government in the Congo, Article 7 of the same Decree expressly authorizes him to frame police regulations in the same way as administrative regulations, and to enforce them under penalties not exceeding 7 days penal servitude and 200 frs. fine.

As a matter of fact, there exists a large number of rules and regulations laid down by the Governor relating, for instance, to the police supervision of roads, markets, caravans, railways, navigation, fires, interments, wine shops, sport, etc.

In order to carry out his duties and to be able to maintain the public peace, the Governor-General has the public force at his disposal. In the Decree of November 26, 1900, Article 1 contains the following clause :—

« The Governor exercises the supreme command over the public force in the Congo. »

And the Decree organizing the Government in the Congo adds :—

« He has complete control over all the military services established in the State. »

It is he who decides in what parts of the country the various corps shall be stationed ;—in accordance with

a plan approved of by the Sovereign. It is he, again, who institutes and organizes, when required by law and order, local Police corps.

« Such corps exist at the present time at Banana (Order of October 5, 1891, at Matadi (Orders of November 5 and December 7, 1897, at Leopoldville (Order of September 8, 1898), at Stanley Falls (Order of January 31, 1898), and at various points on the railway lines of the Congo and of Mayumbe. Moreover, in virtue of a Decree of September 2, 1900, a police corps was organized in Katanga and by a Decree of October 13, 1902, an auxiliary force was established for the railway of the Upper Congo. »

Should the public peace be disturbed in any district, the Governor has the right to place that district under martial law in accordance with the Decree of December 22, 1888.

The principal subordinates or delegates of the Governor-General in the interior of the country are likewise entitled to exercise the widest powers for the maintenance of order and for upholding the authority of the State.

Referring to the District-commissioners, Article 7 of the Order of November 14, 1893 reads as follows :—

« The troops are at the disposal of the District-commissioner, except during the hours of drill established by the daily service order, and they are at his absolute disposal at any time for a military operation. »

This applies to the troops within his jurisdiction, for outside their own districts the Commissioners can appeal for aid, but cannot requisition troops. As to the camps of instruction, the Commissioners cannot requisition men from the camps in their own jurisdiction, except in case of serious danger to the security of the district, and after reporting the matter to the Governor.

It should be noted also that, by the terms of Article 19 of the Decree dated November 26, 1900, all State employés, whether officials or labourers (Judges excepted) can, whenever the public safety requires it, be ordered to take up arms by the District-commissioner, the Head of the zone, or the territorial Commander.

2. — THE JUDICIAL POLICE.

As regards the Judicial Police, the Decree of April 30, 1887, forming title VI of the consolidated rules on the Judicial organization, reads as follows :

« Our Governor-General is hereby authorized to appoint judicial police officers invested with authority to report upon breaches of the law and to issue summonses in the territorial districts assigned to them. He shall further determine what offences come within their jurisdiction.

» He shall likewise determine their mode of procedure and the extent of their powers anent seizure, domiciliary visits, preventive detention and the requisition of the public force. »

By Order dated April 22, 1899, and by several others of more recent date, the Governor-General has provided for the needs which these regulations anticipated and has furnished a list of the officers of the Judicial Police Force specifying the nature of indictable offences and also territorial jurisdiction. All these measures are singularly adapted to the special conditions of the localities which they affect; in drawing them up, due consideration has been given to the requirements of local governments and to the exigencies of the State. They are calculated to make the Judicial Police Force as efficacious as possible.

CHAPTER X.

Justice.

The organization of justice corresponds with the double function which all Governments are called upon to fulfill *viz.* to settle, according to law, civil controversies arising between individuals and to punish, in conformity with the law, the violation of social order.

The judicial system in the Congo, at first necessarily of a somewhat rudimentary character has developed in a remarkable degree. It comprises a system of civil and military Courts, the nature of the organization and jurisdiction of which we are about to explain.

I.

Organization and Jurisdiction of the Courts.

1. — THE COURT OF FIRST INSTANCE AT BOMA.

The jurisdiction of this Court extends over the whole State. As a rule, the sessions are held at Boma, but the Court is not necessarily limited to this locality. According to the Decree of April 21, 1896, the Court of First Instance

is composed of a Judge, a Public Prosecutor and a Registrar (Art. 4).

The Judges are appointed for a term of five years dating from the Decree of appointment. The holders of office are appointed by Decree; substitutes for any of them can be attached by the Governor. The necessary qualifications are formulated by Article 6 of the fundamental Decree; for eligibility there is no condition required as regards nationality.

The Court of First Instance at Boma has a general jurisdiction in all civil, commercial and criminal cases.

With regard to the litigants, we pointed out, in a previous chapter, the cases in which the Court can, in questions of private litigation, try disputes between two natives and the cases in which, in penal questions, natives can be abandoned to the jurisdiction of the local Chieftain and to the application of native customs.

2. — TERRITORIAL COURTS.

Besides the Court of First Instance, territorial Courts have been established successively by the Governor-General in the following localities in virtue of the powers conferred upon him by Article 21 of the fundamental Decree :

1. Matadi; 2. Leopoldville; 3. Coquilhatville; 4. Nouvelle-Anvers; 5. Basoko; 6. Stanleyville; 7. Albertville (Tod ; 8. Lusambo; 9. Popokabaka; 10. Chief-Station of the High-Luapula section; 11. Chief-Station of the Lomami section.

These Courts are constituted on the same general lines as the Court of First Instance at Boma, save alterations which the Governor-General can make in cases of

absolute necessity resulting from an insufficiency in the number of the staff. The jurisdiction of the territorial Courts in matters of repression is the same as that of the Court of First Instance at Boma. According to the Decree of April 27, 1889, Articles 5 and 60, §§ 1 and 2, the territorial Courts take cognizance of all offences committed within the limits of their jurisdiction and of certain offences committed without these limits, *viz.* such as have been perpetrated by criminals who reside or who have been arrested within those limits.

The territorial Courts, whose jurisdiction is not yet extended to civil and commercial cases, are about to receive this additional extension.

3. — THE COURT OF APPEAL AT BOMA.

A Court of Appeal is established at Boma. By the terms of the Decree of April 21, 1896, it is composed of a President, two Judges, a Public Prosecutor and a Registrar. The president and the judges are appointed by Decree for a term of five years dating from the Decree of appointment.

Article 5 of the organizing Decree decides the qualifications for eligibility; in regard to nationality no condition whatever is required.

The Court of Appeal of Boma hears appeals against judgments rendered by the Court of First Instance and by the Territorial Courts.

4. — THE PUBLIC PROSECUTOR'S OFFICE IN THE CONGO.

By the Decree of April 21, 1896, the office of Public Prosecutor is exercised by a State Attorney assisted by Deputy-Attorneys and assistant Deputy-Attorneys. The State Attorney is appointed by Decree. The Deputy-Attorneys and assistant Deputy-Attorneys are appointed by the Governor to the staff of one or the other of the Courts. The appointment is subject to the same conditions as the appointment of judges to the Court of First Instance.

The State Attorney exercises his office under the supreme authority of the Governor. Deputy-Attorneys act under the supervision and direction of the State Attorney.

5. — THE COURT OF APPEAL AND THE COURT OF « CASSATION » ESTABLISHED IN BRUSSELS.

The *Conseil supérieur de l'État*, as we have seen, constitutes alike a Court of Appeal and a Court of « Cassation. » Of this institution and of the faculties with which it is invested, we have already dealt with at some length in the previous chapter.

6. — COURTS-MARTIAL. — MILITARY COURT OF APPEAL AT BOMA.

By the Decree of October 22, 1888, Courts-Martial were instituted for taking cognizance of offences committed by officers, non-commissioned officers, corporals and privates in the State army.

In the early history of the Congo Free State, when civil

jurisdiction had not yet been organized in the Upper-Congo, Courts-Martial, composed entirely of military elements, constituted the only judicial authority in that region : hence they were necessarily called upon to try all offenders.

But this state of things, permissible during the embryonic period of a new country, was bound to disappear with the progress of organization, and at the present time the jurisdiction of Courts-Martial is limited to military offenders ; only in exceptional cases when circumstances require that a certain territory should be placed under Martial law, can civilians nowadays be tried by Court-Martial. And even in these cases it is only the ordinary Penal Code which is applied and the right of appeal is expressly open to them before the Civil Appeal Court at Boma.

Moreover, in virtue of the Decree of October 30, 1895, Article 1.

« The Court of First Instance of the Lower-Congo is alone competent, to the exclusion of Courts-Martial, to take cognizance, in the first instance, of offences committed by persons of European extraction, that the Penal Code punishes by the sentence of death. »

Courts-Martial have been instituted by successive decrees in the following localities and camps : —

« Boma, Matadi, Tumba, Leopoldville, Coquilhatville, Kutu, Nouvelle-Anvers, Libenge, Basoko, Banzville, Djabbir, Uéré, Nyangara, Van Kerekhovenville, Avakubi, Stanleyville, Ponthierville, Nyangwe, Uvira, Lake Kivu, at the chief-stations of the Lomani and Tanganika sections, Albertville, at the chief-stations of the Moero and the Luapula sections, Popokabaka, Lusambo, Umangi (camp), Lisala (camp), Redjaf-Lado, Headquarters of the flying column of the *Province-Orientale*. »

By the Decrees of October 22, 1888, and December 24, 1896, a Military Court of Appeal was instituted at Boma. It is composed of the president of the Civil Court of Appeal and of two other members appointed by the Governor-General, who must be officers in the Army. The State Attorney acts as Public Prosecutor in this Court.

In the organization of judicial authority in the Congo—the expenditure for which figures in the State budget at 900,000 fr.—the object of the Government is to gradually establish in the Upper-Congo Civil Courts similar to those which exist in the Lower-Congo, and composed of professional judges. It is intended also to create a Court of Appeal which will sit either at Stanleyville or at Nyangwe.

II.

Judicial procedure.

« Civil and commercial proceedings before the Courts of First Instance and the Court of Appeal in the Congo are governed by the Ordinance of May 14, 1886, to which must be added the Ordinance of November 12, 1887, approved by the Decree of May 3, 1887 on the seizure of property, by the Decree of February 4, 1887 on expropriation for reasons of public utility, by the Bankruptcy Ordinance of September 21, 1886, approved by the Decree of March 18, 1887.

» Civil and commercial proceedings before the *Conseil supérieur* are regulated by the Decree of May 4, 1891, as modified by the Decree of April 6, 1893, and the Order of the same date.

» Criminal proceedings before the Court of First Instance are regulated by the combined Decrees of April 27, 1889, and April 21, 1896. The Decree of November 18, 1897, adds sundry provisions concerning procedure on Appeal.

» The Order of June 21, 1889, determines that the procedure

in the territorial Courts shall be the same as that in the Court of First Instance so far as criminal cases are concerned.

» Proceedings before the Courts-Martial are governed by the Decree of December 22, 1888, Articles 10 to 18, and 25 to 27. »

III.

Mode of proceeding of the Courts.

Justice in the Congo Free State has this in common with every other form of human justice :—it is neither infallible nor ubiquitous. In the beginning it was not free from the imperfections necessarily inherent on the organization of a new judicial system in a new country, and even to-day it cannot be said that it is without spot or wrinkle.

On the other hand it must, however, be borne in mind that the Congo is a land in which the seeds of civilization are only just beginning to germinate and in common fairness it should be recognized that no colony in like condition has made such strenuous and determined exertions to organize a satisfactory judicial system and to administer justice with an even hand to all sorts and conditions of men—exertions which we venture to think, have been crowned with no small measure of success. Certain regrettable incidents, few and far between, will not suffice to gainsay this conclusion, even though they be exaggerated and twisted, by interested individuals, into grievances too heavy to be borne.

Having thus shown the really remarkable progress which has been achieved in all that concerns the organization

of Justice, we would now add a word on its administration.

I. Facts and official documents alike prove that the Government is doing its utmost to ensure the enforcement of the laws.

Thus « the Government is firmly determined that Justice » shall be dealt out with an equal hand. If it is necessary that » crime committed by natives should be duly punished, it is no » less necessary that the Law should take its course in the case » also of the whites who have transgressed same (1). »

II. The Government has given exceptional pledges of firmness and impartiality in this respect.

« The fact of having constituted a Superior Appeal Court with judges of different nationalities, and of appointing foreign lawyers and magistrates (especially Italians) as judges and officials of the lower Courts in the interior of the country, is in itself positive proof and evident guarantee of the impartiality and genuineness of the judicial administration of the State (2). »

III. The inquiries ordered by the State each time that reprehensible conduct has been responsibly and specifically reported, and the prosecutions set on foot when necessary, are evidence of the vigilance and impartiality of the Public Prosecutor.

« Such a repressive system furnishes to those who now accuse our agents of the most heinous offences, an easy way to show whether their accusations have any ground. If the former have really in view the welfare of the natives, and desire their intervention to be of practical value, let them apply to the regular Courts and bring before them all necessary particulars to support a prosecution. It is not a difficult matter indeed to lodge

(1) *Rapport au Roi-Souverain* du 21 mai 1897.

(2) Letter from Ben G. Nisco, Judge of the Appeal Court at Boma, to the *Don Marzio* of Naples, of the 21 and 22 March 1903.

with the Public Prosecutor a complaint substantiated by sufficient evidence, when one has actually witnessed the offence (1. »

The Rev. Mr. Grenfell, of the Baptist Missionary Society, a man who knows the situation better than anybody, does not hesitate to bear the following testimony to the State : —

« I can certify that the superior authorities of the Congo State have never taken amiss just criticism or the reporting of reprehensible conduct on the part of certain agents (2). »

Furthermore, in order to afford greater facilities for the lodging of *bona fide* complaints, the King-Sovereign has appointed a Committee for the protection of the natives. This Committee is composed of prominent members of philanthropic and religious associations in the Congo, belonging half to the Protestant and half to the Catholic religion. We shall have later on something more to say on this subject.

IV. The judiciary statistics which are regularly published by the Government clearly show that the Courts perform their duty in an efficient manner, and especially that they in no way connive at the ill-treatment of natives.

« High State officials have been tried and sentenced for mere blows. Only a few months ago, an officer of the Public Prosecutor was dismissed and tried for having in error carried out a sentence against a native before the expiration of the time allowed for appeal. One of the latest appeal sentences signed by me last January, before my return on leave, was the final sentence to imprisonment for life, of a Belgian agent of the State who had been found guilty of cruelty to natives.

» The sentences passed by the Courts are rigorously enforced. A notice issued long ago by the Governor declares

(1) *Report to the King-Sovereign*, dated January 25, 1897.

(2) *Le Congo belge*, August 15, 1896, p. 100.

that persons sentenced for assault on natives have nothing to hope from the Royal clemency. And, as a matter of fact, I do not remember the King having exercised his clemency in such cases for several years past, in spite of pressing and repeated applications (1). »

As to barbarous customs, the legal authorities of the Congo Free State do their utmost to repress them, but in many cases—and this is acknowledged by all who have had any experience in this matter—the difficulty of enforcing the law is so great as to be practically insurmountable.

V. The administration of justice in the Congo is of such an impartial and protective character, and is so highly appreciated by the natives themselves, that they come in ever-increasing numbers and from great distances to submit themselves to the white man's jurisdiction.

VI. We would point out, in conclusion, that with a view to detecting and instantly checking any irregularities or abuses which might occur in the administration of justice, all law Courts in the Congo are submitted to Government inspection.

Such a state of things is indeed widely different from that which is depicted by certain grievance-mongers who, making mountains out of molehills, generalizing from rare and isolated cases, clamouring for reforms which, they know very well, from the nature of things, are impossible to be accomplished, have in reality but one end in view, *viz.*, to make trouble for the Congo Free State in Africa and in Europe—and that, for their own convenience.

(1) Letter of Baron Nisco, quoted above.

CHAPTER XI.

The Domain.

Territory is that part of the globe over which a State exercises its sovereign rights; it is the material basis of sovereign influence.

The mere fact of the acquisition of a political sovereignty over a certain territory does not in itself confer on the Sovereign—at least according to modern law—the ownership of all property over which private individuals have acquired rights. But the recognition of these rights, the fixing of just titles of acquisition, the regulation of the legal system relating to property and especially to vacant land, constitute an essential attribute of sovereignty, in conformity with the necessities of public order and the general welfare of society.

As a sovereign and independent State, the Congo State has been, and continues to be, invested with that prerogative.

In appropriating vacant and unowned land, the State has made lawful use of an indisputable and perfectly legal right, sanctioned by International custom and acknowledged by the law of nations.

When legally in possession of vacant land, is it expedient for the State to appropriate certain portions to public uses,—to transfer to private individuals other portions gratuitously or for a consideration, with full rights of ownership or with the right of user only,—to retain some part in its own hands, exploiting same directly itself or through its agents, with a view to applying the revenue accruing therefrom to the needs or convenience of the State? These are questions referring to internal administration which may be discussed theoretically, as we have already observed, but which must be left, in practice, to the sovereign decision of the State.

We shall now examine by the light of official documents the organization of the land system in the Congo Free State. Before doing so, however, it may be well to point out that the few European merchants and missionaries, who were established in the Lower Congo before the State was founded, occupied the soil under exceedingly precarious conditions, by virtue of agreements passed with native chiefs, which generally fell through as soon as the occupation ceased to be effective, so that it may be justly said that in those days there was no such thing as landed property in the Congo. As to the land cultivated by the aborigines, the right of occupation by the natives was settled by local custom, or by the authority of the chieftains. Hunting and fishing contributed with agriculture—which existed only in the neighbourhood of the villages—to provide the natives with food.

1. — ORIGIN AND DEVELOPMENT OF THE LAND SYSTEM OF THE STATE. — RESPECT FOR THE VESTED RIGHTS OF NATIVES AND FOREIGNERS.

The origin of the land system of the Congo Free State is defined in the Order of the Governor-General Sir Francis de Winton, dated July 1, 1885. It runs thus :—

« A Decree of the Sovereign will presently request all non-natives who now possess, by any right whatever, land situated within the territory of the Congo Free State, to make an official declaration, describing the land in question, and to submit their titles to be examined and approved by the Government. The object of the said Decree will be to secure, in the prescribed form, the acknowledgement of acquired rights, and to make the regular organization of landed property in the said State, possible in the near future.

« In the meantime, with a view to avoiding disputes and abuses, the Governor-General, duly authorized by the Sovereign, orders as follows :—

« ART. 1. — From the date of the publication of the present proclamation, no contract or agreement with the natives for the occupation of portions of land will be acknowledged or protected by the Government, unless the said contract or agreement has been made in the presence of a public official, commissioned by the Governor-General, and according to the rules laid down by him in each particular case.

« ART. 2. — No one has the right to occupy without title any vacant land, nor to dispossess the natives of their land; all vacant land must be considered as belonging to the State.

» Vivi, July 1, 1885,

» F. DE WINTON. »

This Order practically divides all land into three classes : land appropriated by non-natives before July 1, 1885,

which must be officially registered and measured; land occupied up to the same date by natives, whose rights are respected, and whose subsequent contracts involving a transfer of property are publicly held to be binding; finally, land which has neither been appropriated by non-natives, nor occupied by natives : such land, whether used by the State or not, is considered State property.

Respect for the rights of ownership acquired by non-natives before the date of the Ordinance of July 1, 1885, under the precarious conditions of which we have spoken, has been practically secured and organized by the Decree of August 22, 1885, in which we call attention to the following provisions :—

« Considering that it is necessary to take steps for the recognition of the rights of non-natives who have acquired property situated in the Congo Free State before the publication of the present Decree.

» By the advice of Our Council of General Administrators,

» We have decreed and do decree as follows :—

» ART. 1. — Non-natives who assert a claim to land situated in the Congo Free State may have their title registered on presenting a request for registration in the form prescribed by the following regulations :—

» This request must be presented in duplicate, before April 1, 1886, to the public officer whose duty it will be to register titles.

» Our Governor-General has power to authorize the admission, after this date, of applications for registration, which for some exceptional reason, could not be presented within the prescribed time.

» ART. 8. — Requests for registration shall be controlled in such manner as Our Governor-General shall deem fit.

» When a non-native shall have duly proved his title to a

portion of land, the Registrar of Titles shall give him a registration certificate which shall constitute a legal title of occupation until such time as the land system has been definitely settled in the Congo Free State.

» Given at Ostend, August 22, 1885.

» LEOPOLD. »

The authorities did not show themselves over severe in the application of the formalities relative to the acknowledgment of acquired rights. In fact, they admitted almost every claim, however slight its foundation.

The special object of the Decree of August 22, 1885, was the registration of land already appropriated by non-natives when the State was formed, and the transactions which its registration would involve.

The Decree of September 14, 1886, has formulated in a general and definite manner, for the present and the future, the fundamental principle of the land system :—

« ART. 1. — All existing rights or any such which shall be hereafter acquired over lands situated in the Congo Free State, must, in order to be legally recognized, be registered by the Registrar of Titles, in accordance with the provisions which shall be prescribed by Our Administrator-General in the Congo.

» Any Deed of a nature to modify the legal position of real estate must likewise be registered by the Registrar of Titles. »

All unfenced estates must be marked out according to the rules prescribed by law.

The measurement of lands is compulsory, and is carried out by official land surveyors, at the expense of the parties concerned, according to a tariff fixed by the Governor-General.

In order to simplify as much as possible the formalities for the acquisition or transfer of real estate, whilst main-

taining all necessary guarantees for such transactions, the Government introduced, as early as 1885, a system of survey and registration known as the *Torrens Act*. The form of the Deed of sale is left to the choice of the parties concerned, who may have it drawn up in the shape of a private Deed or in Notarial authentic form. When a sale is made by the State, a deed is drawn up and the portion of land is measured by the Government land surveyors, who hand the plan over to the Registrar of titles; when real estate already well-known and registered is to be transferred, the parties must appear in person or by proxy before the Registrar of titles to verify the sale, or they must hand over to him the deed of sale after the signatures thereon have been attested and return at the same time the registration certificate previously issued. In both cases the Registrar of titles gives the purchaser either an original certificate of registration, or a new one when he has cancelled the former certificate, which must be given back to him. The transfer may also be endorsed on the earlier certificate, which in that case is to be handed over to the new owner.

It is this official certificate, a duplicate of which is kept in the « Registration Book » under the care of the Registrar of titles, which constitutes the title of ownership. On that certificate shall be mentioned the conditions of the sale as well as the encumbrances with which the property is charged (conditions as to payment of consideration, easements, obligations as to cultivation, mortgages, etc.). No right to the land can be claimed if it has not been registered.

Hence it results that in order to obtain information about the legal condition of any landed estate, it is suffi-

cient to bespeak an extract from the folio of the Registration Book (duplicate of certificate) referring to the property in question.

It should be noted that in the eyes of the law no encumbrance exists unless it is inscribed in the Registration Book.

The formalities of registration are most simple and the certificate of registration only costs 25 francs. The transmission of real estate, as pointed out by M. Janssen (1), is thus as easy as the transfer of stocks.

At first, when it was often impossible to proceed with measurements, and consequently to deliver regular registration certificates, the Government granted licenses of provisional occupation with a preferential right to permanent ownership as soon as the formalities for measurement and registration could be properly complied with.

The Government also allowed private individuals to deal directly with natives respecting the acquisition of land, but such arrangements, however, could only be registered after being approved by the Governor.

For this temporary system was substituted later on the rule by virtue of which the State authorities must always be applied to, in case anyone wished to obtain the disposal or use of unregistered land, whether it be occupied more or less by natives, or not.

The Decree of April 9, 1893, sets forth the rule as follows :—

« Whoever wishes to purchase land other than that over

(1) Bibliothèque coloniale internationale : *Le Régime foncier aux colonies*, t. II, p. 11.

which rights duly registered in the name of a third party exist, must apply to the Secretary of State, etc., etc. »

It seems impossible not to recognize the propriety of the provisions made by the Congolese authority in its territory in respect of the private property of non-natives.

The same propriety is conspicuous in the regulations issued affecting lands occupied by the natives and sanctioning respect and protection of their rights in those lands.

We have already noticed how the Order of July 1, 1885, first prohibited the dispossession of the natives from lands occupied by them, and how it made the purchase and lease of such lands subject to the sanction of the public authorities.

The Decree of September 14, 1886, anent this question, reads as follows :—

« ART. 2. — Lands occupied by native populations under the authority of their chiefs shall continue to be governed by local customs and usages. »

In thus referring to local customs and usages, the law has sanctioned in its true purport and extent the right of the native to own the land he tills.

The same Decree of September 14, 1886, further provides that :—

« All acts or agreements which might tend to expel the natives from the territories occupied by them, or to deprive them directly or indirectly of their freedom or means of subsistence, are forbidden. »

As we have already pointed out, in order to acquire either proprietary rights or rights of usufruct only, over non-registered lands, application must, in every case, be

made to the State authorities, whether the lands in question are held by natives or not.

Consequently, contracts relating to land, directly made between natives and non-natives have been abandoned.

Articles 5 and 6 of the Decree of April 9, 1893, treating of applications made to the State with reference to the sale or hire of lands partially occupied by natives, run thus :—

« ART. 5. — In cases in which the land forming the object of the application is occupied by natives, the Governor-General or his delegate shall intervene to make arrangements with them if possible, with the view of securing to the applicants the cession or lease of the land occupied, but so that the State shall not incur any financial liability on that account.

» ART. 6. — When native villages are situated within in the land acquired or let, the natives may, as long as the official measurements have not been made, carry on agricultural pursuits, without the consent of landlord or tenant, on the vacant lands surrounding their villages.

» All disputes which may arise in the matter between the natives and the grantee or tenant shall be finally settled by the Governor-General or his delegate. »

The Decree of February 2, 1898, appointing a land Commission should also be noted; the regulation contained in Article 2 reads as follows :

« The members of this commission shall specially examine :—

» 3rdly. Whether the lands applied for should not be reserved either on grounds of public utility or with a view of promoting the development of native cultivation. »

Moreover, the State has been careful to respect not only the rights of the natives in lands effectually occupied by them, but also the cultivation of certain produce

carried on by them for commercial purposes. Difficulties having arisen as to the rights acquired by the natives for the cultivation of india-rubber, the Decree of December 5, 1892, ordered an enquiry with a view to clearly defining the rights of the natives in the cultivation of india-rubber and other forest produce in the Upper-Congo territories prior to the promulgation of the Order dated July 1, 1885. These rights were required to be recorded in a special register kept by the Registrar of Titles and the entries so made were to be legal evidence within the limits of the registration. All this was carried into effect and verified by the chief magistrate under date of July 28, 1894.

Furthermore, the working of mining products by natives, under the Decree of July 1, 1885, is protected by Article 5 of the Decree dated June 8, 1888. By the terms of this article :—

« The prohibition imposed by Article 2 (working a mine without a special concession from the public authorities) does not apply to mines worked by natives on their own account and in their own land. »

There are also two other provisions of some importance to the natives namely Articles 9 and 10 of the Order of the Governor-General dated November 8, 1886 :—

« ART. 9. — The issue of registration certificates does not discharge the interested parties from observing, in their dealings with the natives, existing local customs, especially those relative to royalties known as « coutumes de rations, » although these royalties may not be mentioned in the certificates among the encumbrances affecting the property.

» ART. 10. — If, in consequence of the non-payment of the « rations » or « coutumes » usual in such cases, disputes should occur

between the landed proprietor and the natives, the certificate of registration may be cancelled by the Courts on the application of the Registrar of Titles. »

2. — A GENERAL VIEW OF LAND TENURE OF THE STATE.

It may be well, before going further, to consider for a moment the legal *Status* of real property in the Congo Free State, and the General forms of tenure by which it is held.

I. In the first place, then, there is the real property acquired by the State prior to the Decree of July 1, 1885. This includes 1st, what may be termed the Public Domain, *i. e.* property permanently applied by the State to the public service :—Rivers, roads, public buildings and so forth ; 2^{ly}, what may be termed the Patrimonial Domain *i. e.* such public property as is held and enjoyed by the State in the same way as private property is held and enjoyed by individuals.

II. There is also the real property acquired by non-native individuals prior to the above-mentioned decree and for which they have since obtained a regular indefeasible and transferable title.

III. Again there is the real property over which natives have possessed from time immemorial rights of « occupation bonitaire » and « exploitation usagère », which as we have seen, are acknowledged and protected by the State.

IV. Lastly there is the real property annexed to the Patrimonial Domain by the Decree of 1885—waste and unoccupied lands which previous to that decree had been held to be the property of no man.

If we consider the various ways in which the State

exercises or has exercised its Sovereign rights over the real property which it possesses or at any time has possessed, we shall find that the lands and tenements included therein may be classified in the following manner.

1. All that property which Constitutes the Public Domain. Its growth has been commensurate with the growth of public needs. It is inalienable and cannot be transferred. The ground on which railways have been laid, for example, enters into this category.

2. Property of which the freehold has been conveyed to corporations or individuals, and which has, hence, ceased to form part of the State Domain and become private property. In this category may be classed land sold to colonists, or allotted to religious missions, or grants made to contractors of public works.

3. Patrimonial property belonging to the State in which certain rights are available for all in return for the payment of a royalty or fixed tax. Such is the property included in the districts specified by the Decree of October 30, 1892.

4. Patrimonial property belonging to the State which is leased under various conditions and for longer or shorter terms according to the nature of the enterprise.

5. Land coming under the head of private domain strictly so called. Its holding is determined by the Decree of October 30, 1892, and is generally worked by the Government.

6. Domain of the Crown. These are determined by the Decrees of March 8, 1896 and December 23, 1901.

7. Land subject to some form of user other than property worked by the Government or leased.

We shall have something more to say anent each of

these several categories of property, and we shall then draw attention to their principal features, adding some remarks relative to three points of special importance : the administration of forests, the administration of mines, and the administration of the ivory trade.

3. — PUBLIC PROPERTY AND ITS EXTENSION.

To the State belongs the right to determine of what part its dominions, by reason of its nature or in virtue of a definite specification, shall be considered public property, and for this reason excluded from commercial enterprise.

The legislative enactments of the Congo Free State on this point are at the present time somewhat rudimentary and refer only to navigable rivers and streams and to those parts of the riverside which serve as roads (1).

Art. 7 of the Decree of August 9, 1893, reads as follows :—

« Tidal rivers, navigable rivers and streams constitute public property and are not capable of being converted into private property. The same remark applies to the river-banks which for a distance of 10 metres, calculated from the high-water line during the season of floods, are reserved as public roadways ; no one on these riverside roads can plant, excavate or execute work of any kind whatsoever without the express permission of the Government. »

It may here be noted that deeds of concession for railways are drawn up in such a way that the ground itself retains its character of public property.

(1) Compare the more fully developed Decree of January 9, 1899, on the public property of the French Congo.

4. — LAND CONCESSIONS IN FREEHOLD.

There is no question, after that of good administrative organization, of greater consequence for the development and prosperity of a young colony than the question of a sound land system. Without laying down absolute principles in a matter which does not allow of them, and the consideration of exceptional cases being reserved, it is now generally recognised that the gratuitous allotment of land and the granting of immense concessions are not general practices to be recommended. We do not intend to enter into the various systems discussed by political economists concerning the distribution and apportioning of land. These systems are generally well known and we only intend to give here the necessary explanations on the practice in the Congo Free State. With this object in view let us distinguish between the sale of land in accordance with an official tariff, and the transfer of lands granted as a subsidy.

All questions relative to the sale of land are examined by a Lands Commission, appointed in accordance with the following Decree :—

« ART. 1. — A Commission composed of at least five members is hereby appointed to examine the applications forwarded to the Chief Office, either for the purchase or renting of land belonging to the State, or for obtaining licences for the working of mines or for the exploitation of the products of the domain. These members shall be nominated by Our Secretary of State.

» ART. 2. — The members of this Commission shall examine more particularly :

» 1. Whether the information given by the applicant is sufficient to enable a decision to be given ;

» 2. Whether the applicant has complied with all the legal formalities;

» 3. Whether the land applied for is free—if there do not exist thereon any privileges or other rights for the benefit of a third party,—whether it should not be reserved, either in the interest of public utility or in view of developing native husbandry;

» 4. To what conditions the grant of the application ought to be subjected and what guarantees it will be necessary to require in order to insure the proper working of the land applied for;

» 5. Whether the limited Companies already existing or to be formed with a view to working the land applied for fulfil every condition required by the Government.

» The applications, accompanied by a report from the members of the Commission, shall be submitted to the Secretary of State, and if accepted, shall be annexed to the Decree authorising the sale or grant of any part of the State's domain.

» ART. 3. — Our Secretary of State is entrusted with the execution of the present Decree.

» Given at Brussels, February 2, 1898.

» s. LEOPOLD. »

Let us now point out the most important land concessions granted in pursuance of special arrangements and as subsidies :

» The *Compagnie du Congo pour le commerce et l'industrie* is entitled, in pursuance of Article 3 of an Agreement concluded with the Congo Free State on March 26, 1887, to the free possession of about 150,000 hectares.

» The *Compagnie du chemin de fer du Congo*, in pursuance of Article 2 of the Agreement entered into with the Congo Free State on November 9, 1889, has a right to the use of all the ground necessary for the line and its appurtenances, to the entire ownership the reservations specified in Article 3 of the Agreement excepted) of all the land which it may claim

as the construction of the line progresses, within a zone of 200 meters on both sides of the permanent way,—and also the entire ownership of 1,500 hectares of land for every kilometer of the railway built and open to traffic.

» By an Agreement entered into in October 1901, the *Compagnie du Congo pour le commerce et l'industrie* and the *Compagnie du chemin de fer du Congo* renounced their claims to the several plots of ground that they had already selected in the districts of the Busira and Mombyo. By the same Agreement, the *Compagnie belge pour le commerce du Haut-Congo*, authorised to work the lands of the two above-named Companies on joint account, also gave up its claim to a few small plots of ground that it possessed in that region. In exchange for these renunciations a concession of ground situated between the Busira and its affluent the Salonga, was granted by the State to these Companies. This concession includes, in addition to territories on which they already had a claim in pursuance of a preceding arrangement, 500,000 hectares granted by the State in order to facilitate the development of this part of the country. The total amount of the lands possessed by these Companies in the basin of the Busira thus includes a superficial area of about 1,200,000 hectares.

In pursuance of the Agreement dated March 12, 1891, the *Compagnie du Katanga* also obtained the absolute possession of a very extensive concession. By the Agreement of March 9, 1896, this Company relinquished to the State the possession of all the land situated north of the 5th parallel South of the Equator, which had been granted in pursuance of Article 9 of the Agreement of March 12, 1891, the State giving in exchange an equal area in land selected by the Company from the unoccupied territory along each bank of the Lomami river below Beni Kamba.

The land acquired by the *Compagnie du Katanga* in pursuance of this arrangement is worked by the *Compagnie du Lomami*.

The land remaining the property of the Katanga Company constitutes a third of the territories comprised between the southern and eastern frontiers of the State, the 5th parallel

South of the Equator, and the meridian $23^{\circ} 54'$ east of Greenwich, and is divided into blocks each of six geographical minutes side.

The delimitation of these territories being a long and arduous operation, the State and the *Compagnie du Katanga* agreed by a contract dated June 19, 1900, to amalgamate the properties comprised within the limits indicated above, and to entrust the working of them to a mixed Committee, the *Katanga Special Committee* (Comité spécial du Katanga), consisting of six members of whom four represent the State and two the Katanga Company.

— The *Société des chemins de fer vicinaux du Mayumbe* has received from the State about 100,000 hectares of land situated in Mayumbe.

— The *religious missions* established in the Congo likewise possess several thousand hectares of freehold property.

5. — GRANTS OF USER.

Besides the system of absolute grants of lands, we must allude to the system of grants of user which has been established by the Congo Free State, as far as the working of india-rubber is concerned, in certain zones of its territory. We see in that case the State granting to all, with regard to certain products, the use of vast tracts of territory, especially in the neighbourhood of the principal commercial road where the trade is likely to reach its greatest development.

In according such grants, the State defined the zones of territory in which the system should not be applied. The Decree of October 30, 1892, and the Order of December 6 of the same year, organized this system. The zones of territory not subject to grants of

user were defined as follows by Articles 2 and 3 of that Decree :—

« ART. 2. — The exploitation of india-rubber by private individuals shall not be allowed in the portions of the domain situated in the following regions :—

» *a* In the basins of the rivers M'Bomou and Ouelle above the point where by joining each other they form the N'Dua, and, below that point, beyond 20 kilometres from the banks of the river, and likewise within this limit, in three zones, each with a radius of 20 kilometres to be measured from three points which shall be determined by the Government later on, the first below Zongo, the second between Zongo and Banzyville, and the third above Banzyville ;

» *b*) In the basins of the rivers Mongalla, Itimbiri and Aruwimi ;

» *c* In the basins of the rivers Lopori and Maringa above the point where by their junction they form the Lulonga ;

» *d*) In the zone situated within a radius of 20 kilometres around a point to be determined by the Government near the junction of the Bussera and the Tchuapa.

» ART. 3. — The exploitation of india-rubber in that portion of the domain of the State lying in the basin of the Congo-Lualaba, above the Stanley Falls, and in that of the Lomami, above 2° 30' South latitude, will be regulated later on when circumstances shall permit. »

6. — LEASES.

A number of properties have been granted on lease in the urban districts or in those portions of the domain which have been conceded to the public for exploitation. —The State usually lets these lands on lease for a period of three, six or nine years when for commercial purposes, and for a period of 20 to 50 years when the land is to be used for agricultural purposes or for the establishment of religious missions.

7. — THE PRIVATE DOMAIN AND ITS ADMINISTRATION.

A Royal Decree dated December 5, 1892, ordains that the lands mentioned in Article 2 of the Decree of October 30, 1892, form the private domain of the State. The net income derived from this domain is appropriated to public expenditure.

The administration of this private domain has been placed under the Department of the Secretary of State.

The Secretary of State takes such measures as he may think expedient or necessary to ensure the lands of this private domain being turned to account. This takes place by the Government direct or otherwise; in the former case it is effected by the agents in the service of the Intendancy Department.

The arrangements for the alienation of any part of the domain or regarding easements upon it, are under the Treasury.

The right of the State to the usufruct of its domain is the immediate outcome of its proprietary right over the land which constitutes that domain; and owing to the exigencies of the budget, it may be a matter of necessity to turn the domain to profit.

Manifestly the adoption of such a course is entirely to the advantage of the tax-payer, for his burthen is thereby lightened, and moreover, it is calculated to improve the moral and material condition of the native, by accustoming him to regular labour.

In turning to account its own domain, in respect to the latter's immediately exploitable elements, such as the

domanial forests, the State does nothing but what is perfectly lawful and universally allowed.

Moreover, it is only exercising its legitimate rights, and that in accordance with the normal and universal practice, by endeavouring to introduce and to spread in its domain the cultivation best suited to the soil, and by trying to develop agricultural industry under its various forms, together with such other industries as are auxiliary to it.

8. — THE COLLECTION OF INDIA-RUBBER.

The domanial forests of the Congo come under the head of these waste and vacant lands of which, as we have already seen, the State is the legitimate and legal proprietor; and, since the owner of the soil is everywhere acknowledged to be the owner of all that the soil produces, in collecting india-rubber in the forests of its domain the State is but garnering its own harvest. Nor can it be objected that in acting thus it is reaping where it did not sow, for the Congo Government, we know very well, created this industry.

Before the advent of its agents, the natives hardly seem to have been aware of the existence of the india-rubber plant. At all events, it is quite certain, that they never troubled to collect the gum.

Nor is this all. Not content with having created the india-rubber industry, the State has taken steps to ensure its endurance by making replantation compulsory (as we shall shortly see) and by inflicting penalties on those who fail to perform this obligation.

The india-rubber collected in the forests of the domain by the State is sold by auction in Antwerp (1).

It will not be without interest to briefly examine the principles applied and the most recent efforts made by the State in the cultivation of its domain.

For this purpose native labour—the only available labour in the Congo—must necessarily be employed, and in its dealings with the natives in this regard the Government is guided by two fixed principles :—to seek their

(1) The importance of State forests in many countries is well known. Here are, for example, a few particulars concerning Japan.

According to official statistics of the Ministry of Agriculture at Tokio, there were in 1900, in Japan :

| DOMAINS OF THE STATE : | Forests. Chô. | Uncultivated lands. Chô. | Total. Chô. |
|---|------------------|-----------------------------|----------------|
| Of the Forests Department | 7,580,208 | 663,426 | 8,243,334 |
| Of the Hokkaido Government (Yezo Island). | 5,492,489 | 771,540 | 6,264,029 |
| Seven Islands of Izu, Tokio Prefecture. | 3,882 | 2,112 | 5,994 |
| Total. | 13,976,579 | 1,436,778 | 14,513,357 |
| Crown Forests | 2,091,786 | 157,174 | 2,248,960 |
| Private forests (temples, public institutions and private property) | 7,430,129 | 1,053,482 | 8,483,611 |
| Total. | 22,598,494 | 2,647,434 | 25,245,928 |

This total is equal to 30 million hectares, *viz.* ten times the area of Belgium. Below are some particulars regarding the sales.

In 1900, timber was cut down to the value of :—

| | Wood. Yen. | Bamboo. Yen. | Total. Yen. |
|---|---------------|-----------------|----------------|
| In State Forests | 1,694,148 | 12,830 | 1,709,061 |
| In Forests of the Hokkaido Government | 186,893 | 2,083 | 186,893 |
| In Crown Forests | 437,035 | 1,318 | 438,553 |
| In Private Forests | 61,010,947 | 2,430,062 | 63,442,009 |
| Total. | 63,329,023 | 2,446,493 | 65,776,516 |

that is to say, the forest products were worth 170 millions of francs.

See *Le Mouvement géographique*, March 8, 1903.

assistance by means of a method adapted, as far as may be, to their social and political organization; or to seek such assistance in the form of voluntary and remunerated labour, adopting in all circumstances the principle of paying them for the work done, even when this has been exacted by way of taxation.

The organization of native Chieftaincies was the natural outcome of the first of these principles. The Report to the King-Sovereign, dated July 15, 1900, throws light on the working of this institution from many points of view. It is as follows :—

« Faithful to its principle of civilizing the native tribes, without doing violence to their habits and customs, the Government has striven to make use of their own political and social organization in order to accustom them to the yoke of authority.

» It was necessary to find, for this purpose, some facile and popular means of connecting the natives with the State, so as to induce them to accept our Government, and one which should at the same time, be clothed with sufficient official authority to maintain them in our obedience.

» This means was found in the institution of recognized native Chieftaincies. The Government thoroughly realized how detrimental to their welfare and moral improvement was the parceling-out of kindred populations among numerous independent Chiefs, by reason of the extra strain and effort thereby entailed on State officials.

« District-commissioners, » the instructions state, « must do » their utmost to gradually modify this situation, neglecting no » opportunity of grouping under a small number of recognised » Chiefs kindred populations of like interests, customs, and » manner of life. » By solemnly and publicly conferring official investiture on a local Chief—who being dependent on the District-commissioner can be easily kept in view and held responsible for the offences of his subjects—the State obtains an

instrument of government not to be despised and one by which she can the more easily make the native accept her rule.

« Native Chiefs exercise a very real influence over their » subjects, and if they feel that they are supported by us they » will do their utmost to spread our ideas and will eventually » succeed in implanting them in the hearts of their people. »

« The results of the institution of native Chieftaincies are most important.

» The populations, heretofore split up into a number of petty States, were dominated by Chiefs, whose rivalries were one of the causes of relentless warfare between village and village with its long train of murders, mutilations and slavery. On the other hand, the orders of the authorities could not reach the inhabitants, or at all events could not be carried out.

« Since the Chieftaincies have been organized, experience has shown that native practices are more humane; that civil war is being gradually suppressed and that barbarous customs of cannibalism, ordeal by poison, and human sacrifices are more easily extirpated now that the Government has under its hand Chiefs held responsible for the crimes and misdemeanours of their subjects. »

As regards the second principle, the same report goes on to say :—

« The ideal which the Government hopes eventually to realize, is the exploitation of the whole of the State domain by means exclusively of voluntary labour, obtained by no other stimulus than the promise of just and adequate payment.

» In order to awaken in the hearts of the natives the desire of earning wages which are only obtainable at the cost of hard work, the price offered for their services must, of necessity, be a sufficiently high one.

» In several districts this system is actually in force and working satisfactorily. In others it has, as yet, proved inadequate, and the Government is constrained to have recourse to a tax in kind, but even in such cases, the task enforced is paid for, and at the same rate as if it had been voluntarily performed.

The instructions of the Government on this point are positive. Properly speaking, the tax in kind, as established in the Congo, can hardly be called a tax, since the natives receive in exchange for the product they are bound to supply its local current value.

» The Government has never neglected an opportunity to remind its agents intrusted with the collection of taxes in kind, that they are educators of the natives, that their mission is to imbue the latter with a taste for work, and that the means employed would fail in their aim, if compulsion was changed into violence. »

The Government has especially emphasized the following points in the various circulars and official instructions in the matter from time to time issued to the officials :—

1. Suitable remuneration.—The remuneration to be awarded to the natives in payment for their services should be sufficient to inspire them with a due regard for the dignity of labour and to induce them to voluntarily provide such forest product as the Government may require.

2. Concerning the quota of labour to be imposed by way of tax. In order to prevent abuses the following general rule is laid down : the amount of forest product to be delivered by each village should not exceed the amount which could be gathered by one third of the adult male population. Officials should however, commence with requiring a smaller quantity and afterwards gradually increase their demands until the amount suggested has been reached.

We have examined previously the criticism directed against the system of taxes in kind. We beg only to repeat here that the system of bounties or premiums, temporarily established, is now abolished in the Congo State.

Individual failings are inherent in all human institutions. The non-execution of the formal instructions issued by the State is liable to disciplinary and, in some cases, to penal punishment.

As a matter of fact, the Government has declared on many occasions that « in its task of educating the native populations, it has been most adequately supported by a vast majority of its agents who have, in this regard, a profound sense of the duties incumbent upon them. But few of them have failed in this respect and it has only been necessary to proceed against a very small number for neglecting their obligations. Besides, the Administration exercise the most scrupulous care in the choice of their agents and do their utmost to improve their situation as much as possible, by such means as are within their power. »

The measures adopted by the State, in turning its proprieties to profit are of a unexceptionable nature and the State is unquestionably entitled to apply them to the immediately workable elements of its domain such for example as the india-rubber of the forests of the domain.

9. — CULTIVATION.

As we have seen, the working by the State of its private property includes also the introduction of such new subjects of cultivation as are suitable to the soil and are necessary for the development of the industries connected therewith. In reference to this it may be interesting to mention the Decree of April 30, 1897, relating to the foundation of coffee and cocoa plantations on the lands of the domain and to the treatment of the fruits harvested

for the purposes of consumption. The Decree reads as follows :—

« ART. 1. — The chiefs acknowledged by the Government shall be bound to create and to keep, on the vacant land pertaining to the State, in the regions subject to their authority, coffee and cocoa plantations.

» ART. 2. — The area of the plantations to be created will be determined by the District-commissioner or his delegate, according to the amount of the population under the authority of each chief, the plantation in each case being sufficiently large to give permanent employment to one twentieth part of such population.

» ART. 3. — The plantations will be under the management and control of the State Inspectors, who will give to the chiefs the necessary instructions, both as regards the choice and the clearing of the land, and as regards the establishment and the care of the plants.

» ART. 4. — The chiefs will receive a bounty of 10 centimes for each coffee or cocoa tree properly transplanted and measuring 75 centimetres in height.

» ART. 5. — The product of the plantations will be delivered to the officers of the State in such localities as they shall indicate at a price fixed each year by the Governor-General and corresponding to one half of the value of the product in Belgium, after deducting the cost of transport.

» ART. 6. — The chiefs will have a right of usufruct on the plantations created and worked by them in virtue of the present Decree and it may be transmissible to their successors. In no case can this right be alienated, mortgaged, or encumbered with any charge whatsoever, without the consent and authority of the State. »

The coffee plantations created by the State contain, up to date, about two million shrubs. So far, the profit arising from these plantations has been spent exclusively on their development.

The number of cocoa-plants is 300,000.

The gutta-percha plants are 4,000 in number.

The State has recently created in this connection a botanical garden, an experimental garden and a model-farm in the Congo, and in addition a colonial garden in Belgium.

The following report from Baron van Eetvelde, gives much interesting information concerning these institutions :—

« In compliance with Your Majesty's wishes, I have the honour of submitting the project of a Decree creating various agricultural institutions, namely a botanical garden, a experimental garden and a model-farm in the Congo and a colonial-garden in Belgium.

» The African institutions will be established at Eala, on the left bank of the Ruki, in the district of the Equator,—a very favourable country for cultivation, owing to its fertility and to its equable climate. The site selected covers a considerable area and is easily accessible at all seasons, by the steamers navigating the upper River.

» The botanical garden will contain, besides the native flora, such foreign plants as are good for food or useful in trade or industry. The plants will be methodically grouped, in natural families, each of which will occupy a distinct space. Every particular of their growth will be carefully observed and noted. A herbarium will be formed in order to classify and study the specimens and to allow of their representation in drawing.

» The experimental garden, the object of which will be purely practical, will serve for experiments upon plants suitable for cultivation on a large scale, with a view especially of discovering what methods of culture and fertilization are most likely to produce good crops; and what varieties of each species are calculated to give the best results. Nurseries will provide the various districts in the State with saplings suitable for local conditions of soil and climate and will even, as far as possible,

supply private planters with grain, seeds and cuttings. A kitchen-garden and an orchard will respectively serve for the acclimatization of fruit trees and herbs and the production of vegetables and fruits : articles of diet in tropical countries, of very considerable importance.

» Here too, studies and experiments will be made as to the best methods of preparing the product of the soil; and here too, native workmen will be trained, who when they have become proficient gardeners, will be able to instruct their compatriots in European methods of cultivation.

» The natural and indispensable complement of the preceding establishments is a model-farm, which will serve as a stock farm, and for improving the breed of sheep and cattle and poultry. Here, too, attempts will be made, by means of judicious crossing, to obtain varieties adapted to the conditions of the country.

» These will be distributed throughout the realm, and, if they thrive and multiply, a sufficient supply of fresh meat will thereby shortly be assured to non-natives—an article of diet this, which save in a few favoured districts, is at the present moment unprocurable.

» Moreover, at the model-farm, beasts of burden will be trained for transport purposes and for agricultural labour.

» Later on, it will be necessary to complete this organization by joining to it a laboratory wherein to analyse soils and the product of the soil, to study the diseases of plants and animals, their causes and how to prevent or heal them.

» As to the colonial garden, established in Belgium, its object will be to receive and tend the exotic plants which, on their arrival from foreign countries, would be unable to immediately bear the journey to the Congo, and, principally, to propagate the species to be introduced into the Congo. »

The colonial garden has already received a very considerable number of useful and valuable specimens from foreign colonies; since their arrival, they have been carefully tended and propagated so successfully that during the summers of

1901 and 1902, not a steamer started from Antwerp to the Congo without large consignments of these plants destined for the Botanical Gardens at Eala. Indeed the total number of specimens thus shipped may be estimated at upwards of 11,000. Those shipments comprised gutta-percha, *Castilloa elastica*, *Hevea brasiliensis*, tea-shrubs, cinnamon-trees, vanilla-trees, camphor-trees, pepper-plants, ginger-plants, cinchona-trees, coca-trees, precious timber trees, etc. The colonial garden contains, at the present time, more than 8,000 plants ready to be shipped to the Congo.

10. — THE DOMAIN OF THE CROWN.

Decrees dated March 8, 1896, and December 23, 1901, ordain that all vacant lands situated in the following localities shall henceforth be held to be Crown lands :

a) In the basins of the Lake Leopold II. and of the Lukenie-River;

b) In the basin of the Busira-Momboyo river;

c) Between the following boundaries, viz. :—

On the West : the meridian of the confluence of the Lubefu with the Sankuru rivers, from this confluence up to the western ridge of the Lukenie basin; on the South-West and South, the right bank of the Lubefu-river and the 5th south parallel; on the East, the western ridge of the Lomami waters between the last named parallel and the 3rd south parallel.

The domain of the Crown contains moreover, in virtue of the aforesaid Decrees, six mines, unworked at present, but which will be delimited later on, and all property or

effects which may in the future accrue to the State, either gratuitously or for a consideration.

The domain of the Crown is legally considered as a person.

It is administered by a Committee of three persons designated by a decree of the Sovereign, who fixes their remuneration. This Committee disposes of the Revenue of the Crown domain, and applies it according to the directions decreed by the founder King-Sovereign.

If a vacancy occurs in the aforesaid Committee, the remaining members elect a successor to the vacated office, subject to his undertaking to always observe the rules laid down by the Founder Sovereign, in virtue of his constituting power.

The same rule applies in case of permanent incapacity or definite absence.

The Royal Founder can designate members as substitutes to replace, in case of need, deceased administrators or those who resign or are otherwise prevented from holding office.

The Committee possesses the widest powers of administration and management.

The domain of the Crown can be legally represented as regards third parties, by two members of the Committee. The latter can likewise delegate its powers to one of the members or a third party.

11. — OTHER METHODS OF DEVELOPING THE DOMAIN.

Besides the direct working by the State and simple lettings, which merely involve a money payment to the lessor, the States possesses numerous other perfectly legi-

timate means of turning the domain to good account.

It may be induced under certain circumstances to associate itself in various ways with auxiliaries who may be useful in the economic administration of its property. Such association is in many cases as convenient as it is profitable; as, for instance, the arrangement entered into between the State and the fourteen Societies established in the region of Kassai for the purpose of creating the *Kassai Company*. So, too, the arrangement concluded with the *Katanga Company* for the formation of the *Special Katanga Committee* to which has been entrusted the working of the Crown lands situated to the south of the 5th parallel South and to the east of 23° 54' meridian east of Greenwich. This last is a typical example and merits some attention.

Since the arrival in Katanga of the agents of the Special Committee (end of March, 1901), some twenty new Stations, directed by Europeans, have been founded in the furthest parts of Katanga; constant communications exist between these stations; roads have been opened up, others are in course of construction, and a special mission is making a survey as to the most suitable route for a railway between the Southern frontier of Katanga and the navigable Lualaba; mining prospections on a large scale have proved the great value of copper mines, the existence of which has, however, been known for many years, and moreover, the native products (india-rubber, ivory, etc.), are beginning to reach the European markets from Katanga.

At the same time the administration of the district in question has been firmly established.

This occupation and this organization have given peace

to the land, and inspired the native population with confidence. Hitherto these unhappy people had suffered more than any of the other natives from the horrors of slave raiding and from the tyranny of cruel chiefs, who had exalted themselves into veritable potentates. In a word, in a relatively short space of time, after the State had joined hands with the Katanga Company a complete transformation was effected.

The State can also grant throughout its own domain and subject to certain specified conditions, real working concessions, carrying with them the exclusive right to certain products.

Examples of this are the concessions granted to l'*Abir* and to the *Société anversoise de commerce au Congo*, and to the *Comptoir commercial congolais*. Similar concessions, although less extensive, both in rights and in superficial area, were also granted to the *Nieuwe Afrikuansche handelsvennootschap* and to the *Société des produits végétaux du Haut-Kassai*, for a term which has now expired.

It has been questioned whether the State has the right to grant these concessions, but we fail to understand the grounds of this contention. Such a theory amounts to saying that the State can transfer its land absolutely, as it does when effecting sales and making free grants of land, but that it cannot concede a part of this land which is called the « domaine utile. » In other words, it could not cede the right to enjoy certain of the products of the soil without conceding also the right to dispose of the ground itself. Now we do not know of any legislation which does not admit that the various rights in property are

divisible. More particularly the distinction between the right to dispose of the ownership of property and the right of enjoying it by way of user, more or less limited, is universally recognized. This is a case to apply the maxim : « He who can do the greater can do the less. »

If the concession of the user of the property is to be prohibited because it implies the right of working by private individuals, it would be necessary to draw the conclusion that no absolute concession of land is any the more lawful because this too, implies the self same right. The proverb, « He who proves too much proves nothing » certainly applies here.

12. — FORESTS.

The forests are one of the most valuable elements of the industrial wealth of the Congo, especially by reason of the india-rubber trees that they contain. Their preservation in good condition is of public interest.

We have set forth the legal questions relative to the ownership and exploitation of the forests. In order to complete the account, we must briefly indicate the measures taken by the State, on the one hand, to prevent the impoverishing of the india-rubber trees in the forests which are being worked, and on the other, to permit a certain amount of timber-cutting in the forests of the domain, principally in the interests of navigation.

The State has taken rigorous measures in view of the consequences resulting from working the forests without thought for the future.

Article 6 of the Decree of October 30, 1892, provides that :—

« India-rubber must only be collected by means of incisions made in the trees or climbers. »

The Decree of January 5, 1899, contains the following clause in Article 1 :—

« In all the forests of the domain there shall be planted annually india-rubber trees or creepers, not less than 150 in number for every ton of india-rubber collected during the same period.

» State Agents in the forests of the domain where the State has not renounced the working of india-rubber, and private individuals and contractors in all the forests of the domain where the State has renounced the same, either by the Decree of October 30, 1892, or by grant of special concessions, are required to work and maintain these plantations, subject to such conditions as shall be stipulated in the regulations issued for the execution of the present Decree. »

A Decree, dated June 7, 1902, has still further accented these measures by bringing up the number of india-rubber trees or creepers to be planted annually from 150 to 500.

The Order of March 22, 1899, provides regulations for carrying this rule into execution. A careful and constant inspection is organized, by means of special inspectors, to survey the re-planting, and severe penalties can be inflicted to enforce the law.

The system of timber cutting in the domanial forests is regulated by the Decree of July 7, 1898, and by the Orders of November 22, 1898, and March 21, 1902.

Steamers can take in supplies of wood for fuel in consi-

deration of an annual tax fixed according to their tonnage and speed.

The Secretary of State, or officials deputed by him, can authorize private individuals to cut down timber for local use.

Other clearings of forests are conditional upon obtaining a working concession by decree.

13. — MINES.

The fundamental principles of the Mining Laws in the Congo Free State are contained in the Decrees of June 8, 1888, and March 20, 1893.

Articles 1 and 2 of the Decree of June 8, 1888, read as follows :—

« ART. 1. — The transfer by the State of lands belonging to it, and the registration of lands in conformity with the provisions of the land administration, do not confer upon the acquirers or proprietors of such lands any rights in the property or workings of the minerals beneath the surface.

» These minerals remain the property of the State.

» ART. 2. — No one can work a mine except by virtue of a special concession granted by Us, or in pursuance of such general provisions as shall subsequently be adopted in respect to mining rights. »

The Decree of March 20, 1893, develops these principles. It defines and enumerates the substances for the mining of which a concession can be granted. It contains in addition the following provisions :—

« ART. 3. — The Government fixes by decree the districts in which prospecting is authorized, either in favour of all

without distinction, or of the persons specified in the decrees.

» Such authorization is subject to the payment of a license-fee, the value of which shall be fixed by the decree.

» The authorization to prospect for mines carries with it the right to make borings, excavations or other operations of the same nature, with a view to exploring the subsoil, subject to a payment to the proprietor of the land of an indemnity equal to double the damage caused to his property; this indemnity is fixed by the Court if the parties cannot agree as to the amount. »

« Nevertheless, without the formal consent of the proprietor, these operations cannot be conducted in his enclosure, courtyard or garden, nor on the grounds adjoining his dwelling house or enclosure, within a distance of at least 100 metres from the said habitation or grounds. These operations are also prohibited on the public roads, unless with an express authorization given by order of the Governor-General.

» ART. 4. — Whoever shall discover a mine in the district where he is authorized to prospect in conformity with Article 3 can obtain a preferential right for ten years for the concession of this mine, on condition that he complies with the regulations laid down in the present Decree.

» To secure this, he must send, either to the Government or to an official specially delegated for this purpose, the fullest information possible respecting the geological and mineralogical nature of the mine, as well as its situation and the extent of territory for which the concession is asked.

» The application for a concession should be accompanied by a correct plan of the surface drawn to a minimum scale of 1/20,000 and the concession if approved will be granted by Us.

» The decree authorizing the concession will be registered by the Registrar of Titles, who will mark on a plan *ad hoc* the position of the mine conceded, and deliver a certificate of concession.

» As soon as this document has been issued, the person who has obtained the grant can commence work; the delivery of this certificate is subject to the payment of the tax fixed by Article 9 below.

» ART. 5. — No mining concession can be granted over an area exceeding 10,000 hectares; the mining rights include the subsoil to any depth, within the vertical limits of the surface area.

» The concession is limited to the substances enumerated in the certificate of concession.

» The Government can authorize the amalgamation of several concessions of different materials as well as of different districts, and the latter without any limit as to surface area.

» ART. 6. — Subject to the reservation contained in the last paragraph of Article 3 of the present Decree, the concession of a mine confers upon the person to whom the grant is made the right to execute above ground all such work, including buildings, as may be necessary for the proper working of the mine, subject, however, to the indemnity due to the proprietor of the ground as prescribed in Art. 3, which shall be equal to twice the damage caused to his property.

» The concession of a mine gives to the person to whom the grant is made the gratuitous use of the ground of the domain, not cultivated or built upon, which he shall require for the works of the mine on the mining grounds constituting the concession.

» ART. 7. — The mining concession as a whole can be transferred to a third party, but it cannot be transferred in lots without the authority of the Government.

» ART. 8. — The mining concessions are only granted for a term of 99 years. At the expiration of the concession, the property reverts to the State which enters into possession of the mine and its plant.

» ART. 9. — The delivery of the certificate of mining rights is subject to the payment of the following fees :

Fixed fee. For each certificate fr. 2,500 »

Graduated fee. For each hectare of mining property of precious metals, diamonds and precious stones . . fr. 40 »

All other mines. » 5 »

» Unless other conditions and royalties are mentioned in the Decree of authorization referred to in Art. 3, the working of the mine is subject to a royalty of 5 % on the net profit of the enter-

prise. Whatever the profit may be, the annual product of this royalty will never be less than 5 francs per hectare of mining land conceded for the precious metals, diamonds and precious stones, and fr. 0.50 for all other mining lands conceded. The royalty on the working of the mine is due from the day that the certificate of concession is issued; it is payable during the year following each annual inspection of taxes. If the payment is delayed longer, the Government has the right to pronounce the forfeiture of the concession.

» The royalties, with the consent of the grantee, can be converted into an annuity or compounded for by payment of a lump sum; they can also be represented by a certain number of fully-paid-up shares allotted to the Government.

» ART. 10. — The Government may accept the surrender of a mine subject to the holder paying compensation for damage done and giving security for eventual damages.

» ART. 11. — The Government can at all times authorize an inspector to supervise the working of the mines conceded; this agent has the right to visit the works and examine all documents, plans and registers relating to the working operations.

» A copy of the plans showing the progress of the works and excavations must be tendered annually to the Government.

» This inspector must not be interested either directly or indirectly in the mines situated in the territories of the State.

» ART. 12. — The grantees are bound to have in the Congo a representative on whom all legal notices may be served.

» ART. 13. — Any infringement of the present Decree will be punished by a fine not exceeding 5,000 frs. and by a term of penal servitude varying from 8 days to one year, or by one or the other of these penalties. »

14. — IVORY.

The legislation of the Congo Free State in this respect relates principally to three matters, *viz.* :—

1. The regulation of elephant-hunting with a view to

preventing the extinction of these animals. The Decree of July 23, 1899, relative to the hunting licenses has been supplemented by the Decree of April 29, 1901, fixing the close-times, establishing elephant preserves, and totally prohibiting the hunting or killing of young elephants in all parts of the territories of the State.

2. The recognition of the rule in virtue of which the carcases of savage animals are held to belong to the proprietor of the land on which they are found.

3. Free rights granted by the State, in pursuance of the Decree of July 9, 1890, to individuals for collecting ivory in the lands belonging to the State in different districts, and notably in all the territories situated above Stanley Pool, directly accessible by steamers below the Falls of the Congo and below those of its tributaries, and covering a space of 50 kilometres on either side of the river banks.

In order to cover the very heavy expenditure occasioned by the suppression of the Arab revolt, the State, by Decree of November 23, 1893, established in the district of the Eastern Province, a tax on the products of elephant hunts when such should be undertaken by natives or by private individuals, adjusting its incidence so as to meet the exigencies of varying exchanges and at the same time regulating the method of collection so as to avoid frauds.

These regulations come within the ordinary scope of the legislator.

15. — CRITICISM ON THE LAND SYSTEM.

In casting a glance over the Land System and the several ways of dealing with the domain, it is scarcely

possible to deny the perfect propriety of the methods employed by the State in this direction. They may be criticised from the point of view of Colonial policy, but we think they cannot be attacked on the ground of justice.

In a task so vast and arduous as that we are now considering, tentative measures must necessarily, from time to time be adopted, and it is no matter for surprise that they do not always produce the result hoped for, but such errors of judgment in no way discourage the State; they simply lead it to profit by the experience obtained and to substitute better methods for those which have proved defective.

Abuses indeed, are possible, but they only tend to make the Government authorities more vigilant : they are never weary of adopting means to anticipate and repress them, as far as human institutions, always more or less imperfect, can attain this object.

It is an easy matter to point out in an undertaking such as the Congolese enterprise, the inherent imperfections and difficulties of the task and the accidental defects in the instruments which the State is called upon to employ.

It is, however, most unfair to hide under a bushel the good results which have been obtained, and the progress which has been realized, and to expose on a pinnacle a few exceptional and regrettable events, to generalise particular cases and to condemn wholesale an institution which draws forth the admiration even of its foes and of which a witness, certainly beyond suspicion has not hesitated to say. « In the whole history of Colonial life, there is no example of a

like result obtained in so short a lapse of time (1). »

We are far from overlooking the important part which criticism plays in a matter which is as yet so little advanced as the art and science of colonization, but in order to play this part properly, the critic must remain impartial.

Though after all, if certain irresponsible critics have occasionally shown themselves unfair, there are ample compensations in the many authoritative comments made by foreigners of high repute whose testimony cannot be called in question; such, for instance, is the tribute paid by M. de Lanessan, formerly Minister of the Admiralty in France :—

« Belgium, he says, has shown that, in colonial matters, she possesses more practical and rational ideas than ourselves, and a better understanding of the methods of modern colonization 2). »

And this is what Sir Harry Johnston says, speaking from personal experience, of the condition of the native population in that part of the Congo which was formerly the most backward :—

« This portion of the Congo Free State is inhabited by cheerful natives who repeatedly, and without solicitation on my part, compared the good times they were now having, to the misery and terror which they endured in the days when the Arabs and Manyema were established in the country as chiefs and slave-traders (3). »

His opinion applies to all parts of the State.

(1) EDMOND PICARD, *En Congolie*, p. 152.

(2) *Politique coloniale*, 12-13 avril 1898.

(3) *Uganda Protectorate*, I, p. 198.

CHAPTER XII.

Finance.

Without going at length into the question of finance, we think it expedient to afford some information as to the financial relations between the Congo Free State and Belgium, and also to give some details respecting the budget, the national debt, and the monetary system.

1. — THE FINANCIAL RELATIONS BETWEEN THE STATE AND BELGIUM.

The finances of the State have been much hampered from the beginning, chiefly on account of the stipulation in the Act of Berlin, enforcing the absolute prohibition of any customs duty on imports, thus depriving the State of what for a new colony is its main source of revenue. The equilibrium of the budget was, at this time, secured by the personal liberality of the Sovereign.

Actuated by the desire not to demand any pecuniary sacrifice from the Belgian Treasury, the Congo State, when

private resources were no longer sufficient for its rapid development, determined to negotiate a loan. It only asked to be allowed to raise in Belgium a loan of the same kind as those usually raised by towns in that country. This was granted. Later on, having to face the question of a still greater development, the State asked leave to raise another loan; but the Belgian Government preferred to advance the funds. The treaty of July 3, 1890 regulated the conditions of financial help from the Belgian Treasury. Five millions of francs were to be advanced at once, and in addition, a sum of 2 millions annually was granted for a period of ten years, Belgium having the power, at the expiration of this term, either of annexing the Congo, or of being repaid the advance by regular instalments in case annexation should not be deemed desirable. In consequence of the extra expenses which the war with the Arabs caused to the Congo State, the law of June 22, 1895, which was adopted in place of a proposal for annexation, added to the former advance of 25 millions a loan of 6,850,000 fr. These are the only sums advanced by the Belgian Government to the Congo State, for the part which Belgium took in the construction of Congo railways merely consisted in underwriting, to the amount of 15 million francs, a private Company's Stock producing $3\frac{1}{2}\%$ interest, and in guaranteeing, to the extent of 10 millions, certain funds of this company.

At the expiration of the ten years covered by the treaty of July 3, 1890, the question of the annexation of the Congo by Belgium was not considered ripe, and the Congo State was able to announce that, owing to the satisfactory condition of its finances, it had no further need to apply

to Belgium for pecuniary assistance. This new position of affairs, with its consequences for the future, was stated in the law of April 10, 1901, the sole article of which is worded as follows :

« Wishing to retain the right, which she holds from the King-Sovereign, to annex the Congo Free State, Belgium renounces, for the present, the repayment of the sums lent to the said State in fulfilment of the Convention of July 3, 1890, approved by the law of August 4 of the same year, and in pursuance of the law of June 29, 1895. She also renounces the interest due on the said sums. The financial obligations contracted by the Free State on account of the before mentioned Acts will only be held binding in case Belgium should renounce the right of annexation. »

The improvement in the financial position of the State chiefly results from the increasing revenues produced by the State-domain.

2. — THE BUDGET.

The development of the public services and the extension of territorial occupation explain the large increase in the budget of the State.

The following table shows the ordinary receipts and expenditure from the beginning up to the present time.

| YEARS | RECEIPTS | EXPENDITURE |
|-------|---------------|---------------|
| 1886 | 1,523,000.00 | 1,523,000.00 |
| 1887 | 1,891,190.00 | 1,891,190.00 |
| 1888 | 2,911,188.00 | 2,911,188.00 |
| 1889 | 3,205,694.00 | 3,205,694.00 |
| 1890 | 3,147,156.02 | 6,824,125.62 |
| 1891 | 4,554,931.87 | 4,554,931.87 |
| 1892 | 4,731,981.00 | 4,731,981.00 |
| 1893 | 5,440,681.00 | 5,440,681.00 |
| 1894 | 7,383,554.00 | 7,383,554.00 |
| 1895 | 7,370,939.00 | 7,370,939.00 |
| 1896 | 8,236,300.00 | 8,236,300.00 |
| 1897 | 9,369,300.00 | 10,141,871.00 |
| 1898 | 14,765,050.00 | 17,351,975.00 |
| 1899 | 19,966,500.00 | 19,672,965.00 |
| 1900 | 26,256,500.00 | 27,731,254.00 |
| 1901 | 30,751,054.00 | 31,256,054.00 |
| 1902 | 28,709,000.00 | 28,549,000.00 |
| 1903 | 28,090,000.00 | 27,900,556.00 |

Receipts. — The receipts of the State are of two kinds : Ordinary and extraordinary.

Among the latter are included the subsidy of the King-Sovereign (one million yearly) granted till the year 1900, and the annual advance of the Belgian Government (two millions yearly), from 1890 to 1900. Since 1900, they consist of a loan intended to meet the extraordinary expenses.

The ordinary resources include the proceeds of direct and indirect taxation, tolls, excise, and other regular receipts.

Below is given the table of the ordinary receipts for

1903, compared with the figures of the budget of 1902 :—

| 1902 | | 1903 |
|---------------|---|---------------|
| ESTIMATES | NATURE OF RECEIPTS | ESTIMATES |
| 3,000.00 | Registration taxes..... | 3,000.00 |
| 70,000.00 | Sale & letting of land of the domain, timber felling, etc..... | 20,000.00 |
| 6,055,000.00 | Customs { Duties on ex-ports..... 4,550,000.00 Duties on im-ports, including the duties on alcohol... 1,600,000.00 } | 6,150,000.00 |
| 580,000.00 | Direct personal taxation..... | 600,000.00 |
| 1,000.00 | Road tolls..... | 1,000.00 |
| 125,000.00 | Taxes on timber felling..... | 140,000.00 |
| 155,000.00 | Postal receipts..... | 155,000.00 |
| 55,000.00 | Maritime rates..... | 60,000.00 |
| 25,000.00 | Judicial receipts..... | 25,000.00 |
| 8,000.00 | Chancery fees..... | 6,000.00 |
| 4,160,000.00 | Transport & different services of the State..... | 3,100,000.00 |
| 60,000.00 | Taxes on portage..... | 60,000.00 |
| 15,452,000.00 | Proceeds from the private domain of the State, from tributes and taxes paid in kind by the natives..... | 16,440,000.00 |
| 1,703,000.00 | Interest and dividends..... | 1,100,000.00 |
| 122,000.00 | Fees for licenses granted to Congolese companies..... | 105,000.00 |
| 135,000.00 | Extra & casual receipts..... | 125,000.00 |
| 28,709,000.00 | TOTAL RECEIPTS... | 28,090,000.00 |

In this table the most important item is the proceeds from the State lands, and the tribute paid in kind by the natives. These amount to 16,440,000 francs, and are together more than half the total receipts. The customs

duties come next in importance, amounting to 6,150,000 fr. The export duties, which formerly constituted the main resource of the State, appear for 4,550,000 francs. The imports, including the duty on alcohol, produce only the sum of 1,600,000 francs.

It must be noted that the Import and Export duties in the Western zone of the Congo basin are in no way arbitrary; they are fixed in conformity with the terms of the Arrangement made by the Congo State, France and Portugal on April 8, 1892, and which was extended until July 2, 1903, by the Protocol of May 10, 1902.

The following are the documents in question :—

« *Protocol of April 8, 1892.* — I. All goods imported into the Western Congo basin shall be dutiable at 6 % of their value, excepting arms, ammunition, powder and salt, which are to pay a tax of 10 %.

Alcohol to be subjected to a special rate. »

» Ships and boats, steam engines, mechanical apparatus for commerce or agriculture, and manufacturing and farm tools, are exempt from import duties for a period of four years, dating from the time of the first imposition of import duties, and will afterwards be taxed at 3 %.

» Locomotives, carriages and railway plant will be exempt during the period of the construction of the lines, and until the date on which traffic commences. They will then be taxed at 3 %:

» Scientific instruments and instruments of precision, as well as articles used for religious purposes, clothes and personal luggage of travellers and of those who come to settle in the territory of the Western Congo basin, are exempt.

» II. The products exported from the Western Congo basin shall be taxed at the following rates :

| | | |
|--------------|-----------|---------------------------|
| Ivory | | } 10 % of their value. |
| India-rubber | | |

| | | |
|---|---|------------------------|
| Earth nuts | } | 5 % of their value. |
| Collee | | |
| Red copal | | |
| White copal (inferior quality). | | |
| Palm oil. | | |
| Palm nuts | | |
| Sesame | | |

» Export duties on ivory and india-rubber will be collected according to the following tariff:—

| | |
|---|-------------------|
| Pieces and sticks of ivory. | 40 frs the kilog. |
| Tusks, of less weight than 6 kilog. | 16 frs » » |
| » above 6 kilog. in weight | 21 frs » » |
| India-rubber. | 4 frs » » |

» The above rates will be subject to revision from year to year, according to the saleable value of these goods on the African coast, in such a manner as in no way to hamper trade.

» III. The tariffs above indicated for imports and exports are established for a period of ten years.

» *Protocol of March 10, 1902.* The Arrangement of April 5, 1892, is continued until July 2, 1903.

» *Ad valorem* taxation is maintained, but only provisionally, and with the object of eventually establishing a specific taxation with a maximum limit of 10 %, provided for in the Declaration of July 2, 1890.

» The tariff rates on imported goods are raised from 6% to 10 % *ad valorem* under the powers conferred by the above mentioned Declaration, all the exemptions and exceptions contained in Article 1 of the Arrangement of April 8, 1902 remaining also in force.

« No alteration is made in the tariff rates on exported goods.»

As to direct and personal taxation it figures in the budget for the sum of 600,000 francs only, which represents about the 47th part of the estimates of the budget. The rates are assessed on three bases :—1. The area of inhabited buildings and enclosures; 2. the number of employés and

workmen in service ; 3. the ships and boats used by taxpayers.

A general reduction was made in 1902. At the same time a reduction of 56 % was granted to religious, charitable, and scientific institutions and undertakings, by a Decree of May 28, 1902. Moreover, a Decree of June 25, 1902 declares that direct and personal taxation shall be and remain reduced by a fifth, when, and as long as the receipts of the private domain of the State, and of the tributes and taxes payable in kind by the natives, will allow of their being estimated in the budget to be worth 17 millions.

Expenditure. — The ordinary expenditure for 1903 has risen to 27,900,556 francs ; the extraordinary expenditure to 2,364,994 francs.

The ordinary expenses are distributed as follows :—

| | |
|---|-----------|
| Salary of the Secretary of StateFr. | 21,000.00 |
| Salary of the central service staff | 45,360.00 |
| Office expenses and postages | 6,000.00 |
| Library, furniture, rent, heating, lighting, insurance, telephone, etc. | 20,000.00 |
| Repair of buildings | 5,000.00 |

HOME DEPARTMENT.

| | |
|--|--------------|
| The administrative service in Europe | 165,000.00 |
| The administrative service in Africa | 3,180,310.00 |
| The army | 7,701,765.00 |
| Naval expenditure | 2,023,376.00 |
| Sanitary department. | 504,120.00 |
| Public works | 1,081,885.00 |
| Missions and educational establishments | 121,425.00 |
| Expenses relating to some transports in Africa, not set out in the budget | 1,600,000.00 |

FINANCIAL DEPARTMENT.

| | |
|--|--------------|
| The administrative service in Europe | 99,000.00 |
| The administrative service in Africa | 503,065.00 |
| Agriculture | 1,373,932.00 |
| Development of the domain | 6,041,790.00 |
| Savings-bank, interest on loans and guaranteed stock | 1,656,228.00 |

FOREIGN OFFICE AND JUSTICE.

| | |
|---|------------|
| Administrative service in Europe. | 227,400.00 |
| Postal department | 66,000.00 |
| Navigation | 440,200.00 |
| Justice | 910,000.00 |
| Worship | 250,000.00 |

The most important item of the budget is the expense of the army. It amounts to 7,701,765 francs. In this amount, the salaries of Europeans figure at 1,800,000 fr.; those of natives at 2,050,000 francs.

In the credit of 6,014,790 francs for the development of the domain, the wages of natives amount to 2,802,190 fr.

Some items are worthy of special notice :

| | |
|--|--------------|
| Agriculture (improvement in value of land, replanting of india rubber, etc.) | 1,373,932.00 |
| Navy | 2,023,376.00 |
| Public works | 1,081,885.00 |
| Justice | 910,000.00 |

With regard to the last item, it will be interesting to note that the administration of justice—a most important and delicate matter in a new country—has of late been considerably extended.

3. — THE PUBLIC DEBT.

The Decree of July 5, 1887, created a Public Debt Committee for exploring the Upper-Congo with a nominal

capital of 11,087,000 francs, bearing interest at the rate of $2\frac{1}{2}\%$ from January 1, 1900. In a letter of January 12, 1895, addressed to Count de Smet de Naeyer, Belgian Minister of Finance, Baron van Eetvelde declared in the name of His Majesty the King his renunciation of his claim for the repayment of the bonds representing the capital furnished by the King to the Committee of the Upper-Congo, being 10,664,800 francs. This first debt was thus reduced to 422,200 francs.

The Decree of February 7, 1888, created a Public Debt with a nominal capital of 150,000,000 represented by 1,500,000 bonds of 100 francs, to be issued at periods determined by the State. It was decreed that an issue should be made to the amount of 100,000 bonds (Decree of February 14, 1888), a second issue to the amount of 600,000 more bonds (Decree of February 6, 1889) and to the extent of the remaining 800,000 bonds (Decree of November 3, 1902).

The loan is repayable in 99 years. The expenses of the loan, including the payment of premiums, the repayment of bonds without premiums, with the annual increase of 5 francs interest per share is specially secured by a sinking fund, managed by a permanent committee composed of delegates from the State and from financial firms who have taken part in the issue. The issue in Belgium was sanctioned by the law of April 29, 1887, and in June 1894, the bonds were authorized to be quoted in the official list of the Paris Stock-Exchange, in accordance with the agreement connected with the territorial arrangement with France of April 29, 1887.

The Decree of October 17, 1896, created a Public Debt

with a nominal capital of 1,500,000 francs, bearing interest at the rate of 4 % to cover the extraordinary expenses authorized by the Decree of June 25, 1896. The Decree of June 14, 1898, created a Public Debt with a capital of 12,000,000 francs, bearing interest at the rate of 4 % to cover the expenses incurred by the carrying out of extraordinary works of public utility.

The Decree of October 15, 1900, created a Public Debt with a nominal capital of 50,000,000 francs bearing interest at the rate of 4 %, to insure the continuation and development of public works in the Congo.

We may note again that, by a Decree of December 24, 1901, the State guaranteed to the shareholders of the company of the railway from the Upper-Congo to the African Lakes, besides the amortization in 99 years, an annual interest of 4 %, on a capital of 25,000,000 and upon any increase regularly created.

We have already explained the nature and extent of the financial obligations contracted by the State with Belgium, and we indicated, at the same time, in what circumstances they would revive : « in the event, that is, of Belgium renouncing her right of annexation, and from the time when, such renunciation was made. »

4. — THE MONETARY SYSTEM. — PAPER CURRENCY.

The basis of the monetary system is the gold standard. The current coin is the franc, divided into 100 centimes.

By the Decree of July 27, 1887, the King-Sovereign reserved to himself the right of coining, for the use of the Congo Free State, money in gold of the value of 20 francs,

and silver money of the value of 5 francs, 2 francs, 1 franc, and 50 centimes and, small copper coins of 10, 5, 2 and 1 centimes.

The silver coinage has been struck, under the conditions as to standard, weight, remedy, and diameter, shown in the following table :—

| COINS | STANDARD | | WEIGHT | | DIAMETER |
|----------------|----------------|----------|--------------|----------|-------------|
| | Exact standard | Remedy | Exact weight | Remedy | |
| | 1000ths. | 1000ths. | Grammes | 1000ths. | Millimetres |
| 5 francs..... | 900 | 2 | 25 | 3 | 37 |
| 2 francs..... | 835 | 3 | 10 | 5 | 27 |
| 1 franc..... | 835 | 3 | 5 | 5 | 23 |
| 50 centimes .. | 835 | 3 | 2.5 | 7 | 18 |

Pieces of 10, 5, 2 and 1 centimes have been struck in pure copper.

They are perforated in the centre, and are made under the conditions as to weight and diameter shown in the following table.

| COINS | WEIGHT | | DIAMETER | |
|-------------------|--------------|----------|--------------|----------------|
| | Exact weight | Remedy | Of the piece | Of perforation |
| | Grammes | 1000ths. | Millimetres | Millimetres |
| 10 centimes | 20 | 20 | 35 | 7 |
| 5 " | 10 | 20 | 30 | 6 |
| 2 " | 4 | 20 | 23 | 4.6 |
| 1 " | 2 | 20 | 18 | 3.6 |

Paper Currency. By a Decree of February 7, 1896, with the object of facilitating business transactions between the different parts of the State, bank-notes of the State, payable to bearer at the General Treasury of the Congo Free State, in Brussels, were issued. This Decree sanctioned a first issue of notes to the value of 400,000 francs.

An Order of the Secretary of State of February 8, 1896, limited the value of the notes to be issued to a sum of 269,850 francs, comprising 2,000 notes of 100 francs each, and 6,985 ten franc notes. Another Order was issued February 19, 1896, pursuant to the Decree of February 7, 1896.

Formerly, in the Lower-Congo, agents of the State and merchants were accustomed to give the natives, in exchange for their services, a *mokande* or cheque, which enabled them to purchase what they required at the factories.

It is evident that silver, copper and paper currency of the State have a great advantage over the *mokande* or cheque system, these latter often being only payable at a fixed date and by specified persons. At first the circulation of money was slow and difficult. It was only with much trouble that foreign money was displaced in the Lower-Congo, and in the interior there was the same difficulty in abolishing the custom of barter, and the use of the *mitako*, or brass wire.

In order to accelerate the introduction of State currency, the Government decreed :

1. To pay the soldiers and native workmen in cash, and also to pay in the same manner for all goods bought from the natives by the State ;

2. To stop all payments in kind at the stations of the Lower-Congo;

3. To substitute for the rations formerly issued by the State to the agents, an equivalent in cash, and so forth.

Immediately after the enforcing of these measures the State currency began to circulate rapidly, and merchants no longer hesitated to open retail stores, where the natives in the employment of the State and commercial companies, and other natives as well, came to exchange their money for European goods.

At the present time, to the South of Stanley Pool, the greater part of commercial transactions between Europeans and natives is carried on through the medium of the State currency, and in the native markets it is no longer possible to purchase anything except with the silver or copper Congolese money—the preference being given to silver.

The table below shows the progress made since 1888 :

VALUE OF CONGOLESE MONEY IN CIRCULATION ON DECEMBER 31 :

| YEARS | SILVER AND COPPER | BANK-NOTES OF THE STATE | TOTAL |
|-------|-------------------|----------------------------|--------------|
| 1888 | 3,634.63 | — | 3,634.63 |
| 1891 | 117,411.55 | — | 117,411.55 |
| 1895 | 690,340.85 | — | 690,340.85 |
| 1899 | 848,362.21 | 193,660.00 | 1,042,022.21 |
| 1902 | 980,614.95 | 255,710.00 | 1,236,324.95 |

It should be noticed that large quantities of the silver and

copper coins in circulation do not return to the coffers of the State, as the natives make them into necklaces, earrings, bracelets and other ornaments. Many coins also are buried with the bodies of powerful Chiefs.

CHAPTER XIII.

The Public Force

If in civilized countries it is necessary to rely upon an organized force capable of inspiring respect, it is evident that there are still stronger reasons for a like organization in a barbarous country.

Modern colonization, in becoming more emphatically a State function, has imposed on public authorities a greater responsibility for the preservation of general security.

The nature of modern enterprise in the colonies makes it imperatively necessary to prepare for any emergency, and to know how to meet it properly. It is not only a question of protecting commercial transactions on the coast, or in some places more or less accessible by water ; but it is a case of actual occupations of territory, coupled with extensive undertakings and a permanent contact with the whole of the native population.

The Congo State realised at once the necessity of organizing a trustworthy public force in its territory, and it also saw how, by means of such a force, the moral and physical standard of the native population of a new country could be raised.

The question how this should be done was as difficult as

it was important. It is imperative in all undertakings in equatorial colonies to work to a very large extent with the black. The obligations of discipline and labour which are inseparable from military service do not, at first sight, seem to be in harmony with the natural habits and customs of the natives. Experience in the Congo has, however, shown that apprehensions on this score were not as serious as was at first thought.

The successive development of military institutions in the Congo Free State offers a remarkable example of the experimental method and of the practical adaptation of institutions to circumstances. The effect of this policy as applied to other fields of action we have already noted elsewhere.

1. — ARMY RECRUITING.

At the commencement of the occupation of the country, the authorities recruited abroad—at Zanzibar, Lagos, Sierra Leone, Accra, Elmina and elsewhere. This scheme was costly and unsatisfactory.

The term of enlistment was ordinarily for three years. The pay was a shilling a day, exclusive of rations, uniform and equipment, medical attendance, the expenses of the first voyage and repatriation, all duly set out by contract made before the European authorities at the place of departure, with the undertaking to pay two-thirds of the amount in the Congo, and the remainder on return home, in presence of the same authorities. It is clear then that the first soldiers recruited for the Congo State were not exactly slaves.

It did not take long to see that it would be better to replace these foreigners by Congo natives; but before this idea could be carried out it was necessary to overcome the distrust of the natives, and certain prejudices on the part of the Europeans against them—a work of time and patience.

In 1885 Captain Coquilhat succeeded in recruiting a small number at Bangala. Captain Van Dorp did the same at Manyanga. The work was started, but much patience had to be exercised. When a small contingent had been enrolled in a district, their comrades would not enlist before seeing that these recruits returned in order to have positive proof that they were safe amongst the Europeans.

The first serious attempt to form a native militia was made in 1887.

Desirous of forming a national army, the State sought at first to utilize for this purpose, even the incidents of the struggle against slave-raiders and dealers, as well as such native political or social organizations as seemed likely to favour the development of authority.

Slaves, rescued in fights with slave-drivers were pronounced free, and placed under the protection of the State. Those who, for certain reasons, could not be repatriated, either because they did not wish to be, or because they were ignorant as to the whereabouts of their own homes, enlisted gladly in the Native Militia. Some native Chiefs, in small proportions, at first, working with the authorities, set apart a certain number of their subjects for the Public Force. A system such as this has a certain resemblance with that which was in force in Europe during the middle-ages. The local rulers, bound to render military service, brought with them some of their dependents, whose num-

bers varied according to the power of their lord, and the extent of his territory.

All the measures above mentioned belong to what we may term the period of systematic experiment in Congolese military institutions. A period of more practical and definite regulation, commenced with the Decree of July 30, 1891, respecting the recruiting of the Public Force.

The object of this decree is to raise a regular national army by utilizing the existing forces of the country.

The following is the Decree in question, together with such modifications as have since been introduced :

« ART. 1. — Recruiting of the national army will be by voluntary enlistment, and by annual levies. The contingent to be recruited is determined by Us.

» ART. 2. — The Governor-General shall regulate the annual levies intended to complete the ranks, according to the contingent fixed by Us.

» ART. 3. — The Governor-General shall annually determine in what districts the levies shall be made, as well as the proportion to be furnished by each. He shall indicate also, in each District, the localities where the levy will take place, as well as the proportion to be furnished by each.

» ART. 4.—The method by which the levy will be made shall be determined by the District-commissioner, in agreement with the native Chief. When practicable, it shall take place by conscription.

» ART. 5. — No one must be enrolled under the age of fourteen, nor over the age of thirty.

» ART. 6 (Decree of April 20, 1900).— The duration of service in the regular army shall be seven years.

» ART. 7. — Every man enrolled in the regular army is registered on the rolls of the Public Force. A Booklet is given to him of the model approved by the regulations on services and responsibilities of the Public Force.

» ART. 8. — Every man enrolled by virtue of Articles 2, 3 & 4

of the present Decree is supported and equipped at the expense of the State.

» He receives a daily pay of 21 centimes; the payment of a third of this sum may be delayed until the expiration of his time.

» ART. 9. — The authorities are bound to protect all enrolled men against any attempt which may be subsequently made against their personal liberty.

» ART. 10. — The authorities are strictly forbidden to keep in the ranks men whose names are no longer on the rolls, in accordance with Article 7, or whose term of service is expired, except in the case of voluntary re-enlistment.

» Every infringement of this kind shall be punished by a fine of 25 to 500 francs, and by 8 days to 6 months penal servitude, or by one of these penalties only. »

The militia-man, therefore, is paid 21 centimes daily; there is also granted him a monthly allowance of a shilling, which is retained for his future use, and which can only be taken from him for a grave offence and then solely in the cases stated in the rules for the organization and discipline of the Public Force. This allowance is paid to him at the end of his service.

The period of service of the volunteer depends upon his personal convenience, and his pay is determined by his contract. He has the right to the same monthly reserved pay as the militia-man, in the same circumstances, and this allowance can be withdrawn for the same causes. It is paid to him in proportion to the number of months he spends under arms.

All the native troops are clothed and fed at the expense of the State, and receive free medical attendance.

At the expiration of his service the volunteer is discharged unless he elects to re-enlist.

At the end of his time the militia-man is enrolled in the reserve for a term of five years, under the conditions of the Decrees of January 18, 1898, and December, 19, 1899, unless he voluntarily enters into a new engagement for three years in the active Army. In such case, he is released from all future service, and is disbanded at the expiration of the new engagement.

The new system was introduced little by little, as circumstances permitted. At first the natives, not understanding this new institution, showed a certain amount of distrust. But when they discovered how they were treated, what was required of them, and the advantages attached to service in the army, a sudden change came about, and they accepted military service without demur.

The number of volunteers increased steadily. In 1889, 111 offered themselves for service; in 1890—478; in 1891—1,623; in 1892—2,955; in 1893—3,271; in 1896—4,539; in 1897—4,727; in 1898—5,319; in 1899—5,015; in 1900—4,892; in 1901—4,304; in 1902—4,917. On January 1, 1903—5,278.

Indeed, if it were not for the importance of dividing the burden of military service equally amongst all the tribes; if it were not advisable for political and other reasons to have in the service men from all parts, the government could almost entirely dispense with compulsory conscription, and, in that case, the army would in great measure be peopled with men with a taste for their profession.

Whilst the number of native volunteers increased so quickly, the number of foreign soldiers naturally decreased, and since the year 1896, systematic outside recruiting has been altogether abandoned.

True, since then a considerable number of volunteers from abroad have asked to be enlisted or re-enlisted, most of them coming from their own countries, at their own expense, and presenting themselves at the government offices in the Congo, and of these a few picked men have, from time to time, been accepted. The large number of those who have thus volunteered seems to indicate that after all Congolese military service is not without its compensations, and it is difficult to believe that these men, if they had been ill-treated, as some have alleged, would have come from enormous distances, at their own expense, to place themselves again in the power of their tyrants.

The progress in the occupation of the territory, the growing security of communication, the strict discipline which is maintained among the men, the vast increase of volunteers and re-enlisted soldiers : these things together have made it possible to reduce the district conscription. Thus the annual levies of the militia, which in 1896 numbered 6,000 men, ceased to increase from that date, and dwindled to 2,200 in 1901. And the population of the territory, be it marked according to the usual estimates, does not appear to be less than 20 millions.

At the present time the State has no trouble in recruiting for the army. It possesses a nucleus of veterans, for the number of men asking to renew their term of service continually increases. On the other hand, the colonies of native children—composed of deserted children, or of the children of parents liberated upon the dispersal of slave convoys, or of the children of fugitive slaves who claimed the protection of the State—whilst they in great measure supply the stations with labourers and artisans, afford the army a nursery

of young soldiers specially devoted to the Europeans who have rescued and brought them up, and well able to assist in the training of recruits and in the formation of a trustworthy staff of native non-commissioned officers.

2. — THE ORGANIZATION OF THE TROOPS.

Army organization was necessarily at first of a somewhat rudimentary character. The recruits and volunteers from the coast passed through the hands of a Company for instruction, established at Boma, and were then speedily drafted as need required, into the columns and companies of the districts.

The general organization of the service dates from the Decrees of August 5 and November 18, 1888. It is now chiefly regulated by the Decree of November 26, 1900, of which the following are the most important provisions :

« ART. 1. — The Governor-General exercises supreme command over the troops in the Congo.

» ART. 2. — The Public Force includes : the Staff, the companies on active service, the reserve and the instruction camps.

» ART. 3. — The following is the list of the various grades held by officers in the army :

» European Division : The Commander of the troops (who holds the rank of Government Inspector), Captains-commandant of the 1st class, Captains-commandant of the 2nd class, captains, lieutenants, 2nd lieutenants, upper non-commissioned officers, non-commissioned officers, military assistants.

» Black Division : The sergeant-majors, upper sergeants, the sergeants and corporals.

» ART. 4. — Failing instructions from Us, the Governor-General divides the European Division into different sections according to a list drawn up annually and annexed to the budget of the State.

» ART. 5. — The officers are appointed by Us.

» The upper non-commissioned officers, the non-commissioned officers, the military assistants, the sergèant-majors and the first sergeants are appointed by the Governor-General.

» The native sergeants and corporals are appointed by the District-commissioners or chiefs of zones on the recommendation of the Commandants attached to the locality, and in the case of isolated troops, on the recommendation of European agents.

» Those belonging to the Company of the Lower-Congo, are however appointed by the Commander of the Troops, those of the Reserve Corps and of the camps of instruction, according to the special regulations for these sections.

» ART. 6. — The Army is administered by a Commander in chief who resides at the seat of Government and is assisted by a Staff. The commander of the forces exercises the faculties with which he is invested by the regulations of the service and the budget, under the supreme authority of the Governor-General.

» ART. 7. — The Staff includes further, assistant-officers, and non-commissioned officers, Keepers of the Archives.

» ART. 8. — The Companies for active service are distributed amongst the different districts, zones or territories, by the Governor-General according to a table of division approved by Us.

» They are designated by the names of the districts, zones or territories to which they are assigned.

» Their number is determined by Us.

» They have head-quarters established at the capital of the district, zone or territory.

» Their principal object is to maintain order in, and to effectively occupy each administrative district, zone or territory.

» ART. 9. — The number of men in the companies on active service depends upon the importance of the region which they have to protect, the number of non-commissioned officers varies according to the number of soldiers under arms.

» ART. 10. — The effective force of the Companies is fixed annually by the Governor-General within the limits of the estimates granted by Us.

» ART. 16. — The Governor-General decides upon the effective force of the camps of instruction within the limit of the estimates granted by Us. He appoints the commanding officer of the camp.

» ART. 17. — The Commanding officer of the reserve corps is appointed by Us.

» ART. 18. — Camps of instruction and the reserve corps are dealt with in a special regulation which refers to the administration, composition and subdivision of these sections and the duties of their commander.

» ART. 19. — In addition to the sections and special corps whose existence, composition, organization and administration are the subject of separate Decrees, the whole of the State staff, whether officials or labourers, with the exception of magistrates may, when public security requires, be called upon to bear arms by the District-commissioner, the chief of the zone or the district Commander. This body is then divided into separate sections commanded by the officers and non-commissioned officers of the Army specially appointed for the purpose by the Governor-General or the authorities making the requisition. Failing a sufficient number of non-commissioned officers in the Army but in that case only, officials and agents not belonging to the army may be commissioned provisionally by those authorities as auxiliary officers or non-commissioned officers. To become permanent, the commission granted to them must, however, be confirmed by the Governor-General.

» This auxiliary force during the whole period of its activity is under the control of the same authorities as those upon which the Army depends and is subject to the military laws and regulations. »

The first camps of instruction were established at the Equator and at Stanley Pool in 1891-1892. Their formation dates from August 1, 1892. Special regulations determine the conditions to be fulfilled by the men, to enable them to be enlisted.

There are at present four camps of instruction : One in

the Lower-Congo, at Luki, and three in the Upper-Congo, at Yumbu, Irebu and Umangi.

The improvements effected in the organization of the camps have enabled the authorities to reduce the period of instruction from 18 months to one year.

When not occupied by military drill, the average length of which is three hours per day, men in the camp are employed in cultivating the soil, chiefly to provide food for the troops.

The number of the companies is 24. Each company is divided into platoons of 50 men, and its effective strength is in proportion to the extent and the needs of the territory over which it exercises authority.

The number of European non-commissioned officers corresponds in each company to its effective strength, and to the duties which it has to perform.

The general effective strength of the army, exclusive of the reserves, is 16,175; non-commissioned native officers muster 1,938; European Staff 456.

The establishment of a Reserve Corps at the Lisala camp dates from 1898. It is composed of militia-men recruited for this purpose and of men on unlimited leave, and liable to be called up in case of mobilization.

3. — DUTY OF THE PUBLIC FORCE.

As set forth in the Decree of November 26, 1900, the principal business of the army is to maintain order in, and to effectively occupy each district, zone or administrative territory. This mission it has adequately fulfilled in the

past and the untiring efforts of those in command give ground for the conviction that it will continue to do so in the future. Law and order now prevail where anarchy was formerly the rule. North, east and south, the slave-trade has been crushed and the men who trafficked in human flesh expelled at the sword's point. Outcome this, of a long and arduous struggle which was not without other compensatory results, for thereby the State was enabled to make good the effective occupation of its territories. And note this : in 1885, the number of stations was only 13; ten years later they had increased to 115, and at the present time there are no less than 215.

With improved methods of recruitment and training the men recruited have also improved. The State certainly does not pretend that the savages whom it has been able to subject to the discipline of its army, have thereby become highly civilized. It knows very well that if these men were abandoned to themselves they would relapse into the state of barbarism from which they have been rescued with so much difficulty. Constant supervision and spartan discipline are the only means of keeping them to their duty. Of this the authorities are well aware. The State's code of instructions contains numerous regulations, all tending to this end, and moreover a service of inspection has been organized to secure the vigilance of officers and to prevent any abuse.

The natives must be trained with the greatest humanity. Good care must be taken that they receive sufficient food, be suitably quartered, that the sick be always properly attended to, that all of them be well treated, that the offences of which they may be guilty be punished in

accordance with the regulations, but without excessive severity.

The natives who command small posts are kept under the closest supervision. Their action has to be constantly controlled, and it has been found convenient to considerably reduce their number.

As a measure of precaution, garrisons are formed of men of four different tribes at least, and the number of volunteers from the region itself never exceeds a quarter of the total force.

In the Congo there have been revolts and military mutinies more or less serious, and more or less difficult to quell owing chiefly to the nature of the country where they occurred, which enabled mutineers to avoid encounter with the loyal troops sent out to fight them. Such episodes are unfortunately not peculiar to the Congo State; all colonies afford like instances. These facts are well known and it is unnecessary to recapitulate them. When, pressed by circumstances, it was found necessary to employ untrained contingents formed for the most part of men from the same tribe, trouble was bound to be the outcome.

The first revolt broke out at Loulouabourg in July 1895, where the raids of the slave-traders Kiokos and Wabundu had to be faced. It would have been difficult to reduce the garrison to the very feeble contingents which were at that time furnished by the camps of instruction and recourse was had to recruiting on the spot, in spite of the danger incurred.

The native inhabitants separated their cause from that of the rebels, notwithstanding the terror inspired by the latter. In many instances they came to the help of our troops, but

in spite of their aid, it took nearly two years to defeat the mutineers, some isolated groups of whom retired southwards out of immediate reach of the State. Aided by the operations of Wabundu, and receiving arms and ammunition from him, these groups have not even yet been rendered completely harmless.

The revolt of the Batetela forms another episode amongst military mutinies. These natives, who had been under the command of Arabs, had caught the germs of indiscipline and hostility from their masters. Owing to circumstances, it had been impossible to apply the Government regulations, directing the formation of troops from amongst men of different tribes. The Batetela could not make up their minds to submit to discipline, and to abandon the habits of violence with which their former instructors had so deeply imbued them. The authorities had believed their protestations of loyalty, but, in reality, they had only placed themselves at the disposal of the Congolese Army, because they thought that by going over to the side of the State which in their estimation was the stronger side they would be able to continue their life of rapine and plunder, and mutiny which afterwards ensued was the outcome of their disillusionment.

The Batetela soldiers who in the Eastern Province had surrendered voluntarily at the time of the Dhanis revolt, had their death sentence remitted : some of them were afterwards engaged as labourers in different districts, notably at Boma, where they were employed on the fortification works, and this was the result : on April, 17, 1900, without any warning, at the two o'clock muster, these men broke into open revolt, seized the keys of the arms magazine, and attempted to make use of the guns of the fort to destroy all

within their reach. In this they were not successful, and on the third day the rebels abandoned the place during the night. They were overtaken, however, by the troops of the State and some of them were captured but 30 made good their escape to a neighbouring territory.

Since then no similar outbreak has occurred, and the experience of the past having made the authorities sufficiently careful in the matter of recruiting, in all probability we have seen the end of this kind of rebellion.

The other tribes of the State moreover have not given rise to any of these incidents, the soldiers which they supply to the Public Force are generally devoted to their leaders and appreciate the manifold advantages which the service ensures to them. The State would certainly have been unable to bring its anti-slavery campaign to a successful close with an army of malcontents. The Government encourages the legal marriage of native soldiers, the legitimate wife has the right to an allowance, besides which she and her children receive daily rations. Married soldiers are lodged apart, and only the legitimate wives are permitted to follow the troops when they change garrisons.

A patch of ground is placed at the disposal of each family to be cultivated by the husband and wife outside the hours of service, and the produce belongs to them. Knowing very well that idleness is an evil counsellor, the authorities take good care to keep their men constantly occupied. When they are not required for military instruction, they are employed on works of public utility or as fields labourers, and thus there is no time for loafing. This was the system adopted by the ancient Romans in their colonies, and they found it an effectual means for

assimilating the conquered nations. Austria follows a like plan in her Military Confines, and so does Russia, on the frontiers of Siberia. The greatest care is given to the instruction, moral as well as technical, of the young soldiers. This point, justly considered as of the utmost importance has been the subject of repeated and special directions.

The Government is zealously seconded by its agents, and by a body of picked officers who are most particular in observing the numerous regulations, and devote themselves with true self denial to the improvement of their subordinates. These efforts, after many years of perseverance, have been rewarded by most satisfactory results.

This wise and generous policy on the part of the State anent its native levies, has had another, and a no less satisfactory result : the number of men who re-enlist has considerably increased. In order the more to encourage this, the pay of those who rejoin the colours is augmented from fr. 0.21 to fr. 0.35 and, in the case of those who do so a second time, to as much as fr. 0.50. Moreover, a premium is granted on re-enlistment. But this is not all : the legitimate wives and children of re-enlisted men receive rations at the expense of the State, and the monthly allowance of their wives is doubled. The ever-increasing number of re-enlistments shows what value the natives attach to military service, and the satisfaction they feel at the good treatment received by them in the ranks of Army. The Congo State, alive to the importance of this element, strives to encourage re-enlistment in the different companies of troops, so that in each regiment there may be a certain number of picked men to promote military spirit

amongst their comrades and by their good example to help to maintain discipline. The soldiers who have distinguished themselves by their loyalty and military qualities obtain promotion, and receive extra pay which varies from fr. 0.05 to fr. 0.50 according to rank.

The white officers and non-commissioned officers never lose an opportunity of inculcating into the minds of their subordinates ideas of order, discipline and respect for persons and property, and attachment to duty. Such of the blacks as faithfully observe the regulations are rewarded by means of promotions and distinctions, and in this way a spirit of emulation is engendered amongst their comrades. These men thus become valuable instruments in the maintenance of order and justice.

Re-enlisted soldiers constituting in Africa as elsewhere a first-class military element, the increasingly large number of re-enlistments is an additional guarantee that discipline and order will continue to be well maintained in the new Congolese army.

The State does not lose its interest in its soldiers after their time has expired. The discharged, who are sent back to their homes free of expense, with wives and children, if any, are specially protected, and receive grants of land in any station they may choose.

The Army in the Congo is not only a valuable instrument for the maintenance of order and law, but is also a powerful influence for moral improvement.

The old soldiers, trained to discipline, contract, while in the service, habits of order, regularity and activity which they retain in private life. They have adopted the custom when their time has expired, of establishing themselves

near the stations, where they remain under the eye of the whites and run less risk of losing the good habits which they have contracted. In the neighbourhood of certain important posts, there are now villages of old soldiers who inhabit well-built huts, often made of brick. These villages render invaluable services in the re-victualling of the troops, as the men who inhabit them having acquired a taste for comfort, are inspired thereby to work in order to procure the resources necessary to meet their new requirements.

This example attracts the attention of the surrounding natives, and the desire of obtaining similar comforts frequently prompts them to follow it.

By degrees a better state of things is being established which although not yet actual civilisation, is a great improvement on barbarism, and constitutes on the whole a better state of affairs. To cite a remarkable fact : The very tribes which were formerly considered the most untameable, are now, of all others, the most loyally attached to the Government and the most submissive to law. Coquilhat, in his book on the High-Congo, which appeared in 1888, relates instances of revolting cannibalism committed in the village of Bangala. At the present time these same natives count amongst the most docile, and they no longer practise cannibalism.

Another fact no less worthy of note for those who consider from what ethnical source the State has been hitherto obliged to recruit its Army : there is now rapidly springing up, around each of the principal posts occupied by the Government, a separate and distinct class of free labourers—a class destined to become in the future the basis of the

work of social transformation undertaken in Central Africa. A work of this nature, breaking away, as it does, from ancient customs, cannot be carried out with suddenness which would compromise the results. The policy of the Government is to act by degrees on the mind of the population, without running counter to their habits and institutions, and even to make use of the latter, when not reprehensible, for attaining the desired end. And if it mercilessly represses, on humanitarian grounds, such monstrous abuses as slave-trading and cannibalism, it knows how to devote itself with patience and perseverance to win the confidence of the different tribes, and to make them accept Government rule, without resorting to force, at the same time impressing on them the conviction that strength is united to authority and justice. It is thus that in a comparatively short time surprising results have crowned the wisely planned efforts of the State.

All this has been rendered possible by the admirable self-sacrifice of those who, in the Congo, represent Belgian honour and valour with such devotion, and to whom Baron van Eetvelde, calling to mind their heroic struggle with the Arab slave-dealers, bears the following well-deserved testimony :—

« These results, Belgium can say with legitimate pride, are due to the courage and bravery of her officers, and non-commissioned officers, not one of whom has been unworthy of her during this painful campaign, each has deserved well of his country and has given proof, in his own sphere of equal devotion and equal gallantry. It is an honour for the Belgian army to count these brave men in its ranks, and to have proved that in all circumstances the country can rely on them.

» The Congo Government is happy to bear public testimony

to these noble deeds and to offer its grateful homage to those who have sacrificed their lives in helping forward the sacred cause; to Van Kerkhoven, Ponthier, de Heusch, Michiels, De Bruyne, Lippens, de Wouters d'Oplinter, Writhoff. »

But Belgian officers in Africa have not only been justly appreciated and justly praised by their own Government. Foreign comrades in arms have held them in like esteem and they too have deemed it their duty to bear public witness to the faith that is in them.

Out of a host of examples we shall content ourselves with two :—

« As for us German officers on the shores of the Tanganika, » said Richard Kandt, « we, who have had an opportunity of closely observing events in the Congo, have learnt to esteem our Belgian comrades and I should be happy if, in expressing our sentiments towards them, I could help to reduce the number of those in Germany who under-estimate the worth of these brave men (1). »

« I consider it my bounden duty, » said Mr. Lerman, formerly an Austrian officer, « to render homage to the officers of the Belgian army who are so unjustly accused; I have lived among them for fourteen years and I have learned to esteem them...

» I declare boldly that if some people assert that your countrymen have misbehaved themselves in Africa, they do not speak the truth (2). »

If we were allowed to extend this praise, so justly given, we would include in our homage all those brave military co-operators whose abilities have been utilized by the modern colonizing States, more especially in the field of exploration, who have shown in the service of their respective countries and in the great cause of civilization, a

(1) *Étoile belge*, March 6, 1899.

(2) *Journal de Bruxelles*, October 4, 1896.

spirit of sacrifice and brave devotion, which honours civilized humanity by presenting the spectacle of its universal expansion.

Let us finish this study of the Public Force by quoting a remarkable document, namely the instructions relating to coercive measures and to relations with the natives.

« No agent may commence hostilities against the natives, save he is compelled to act on the defensive, or unless he has been duly authorized to do so. The Government does not doubt that energetic measures are sometimes necessary, but considers that they must seldom be resorted to, and then only when all means of conciliation have failed.

» In many cases by prolonging negotiations and conducting them with more tact, hostilities might be avoided.

» By seeking the good offices of chiefs devoted to the State and at the same time being in friendly relations with the tribes with whom we may be at issue, bloodshed could frequently be avoided, without weakening the prestige of the State.

» In this manner misunderstandings might be avoided with the natives, especially those who have had but little intercourse with Europeans, as to our intentions and feelings towards them : misunderstandings which must inevitably provoke the premature adoption of extreme measures.

» In any case, when the latter have become unavoidable, the Government must be accurately and fully informed of the motives which led to them, and the operations must be so carried on that, as far as possible, only the real culprits are touched.

» Further, troops taking part in military operations must always be commanded by a European. No exception to this rule can be admitted and agents who infringe it will thereby expose themselves to severe punishment.

» In case of hostilities the property of natives must be respected and operations conducted and superintended so as to avoid abuse. Nor may villages be burnt under any consideration whatever. Prisoners of war must be treated with the greatest

humanity, and if women and children be amongst the number, they must be placed under the direct protection of the leader of the campaign.

» When treating for peace, punishment must be inflicted on natives, in proportion to the offence committed.

» At that moment the European commands the greatest moral power secured by material success; and he must avail himself of it on every occasion to influence directly the mind of the native. It is also the time to acquire, little by little, a full knowledge of him, to understand his character, and to discover how to manage him. The commanders who have acted thus have obtained lasting results and have succeeded in avoiding much bloodshed.

» Failure to conclude peace with the vanquished would result in leaving them full of desire for vengeance, which would impel them to new acts of violence on the first opportunity which seemed to be favourable and on which they believed they could act with impunity. It would in fact be leaving a whole district in a state of permanent disaffection, in a word pursuing a course of action highly prejudicial to its prosperity.

» In these circumstances, it would be only retarding the accomplishment of the mission of civilization and of peaceful occupation that the commanders of the district have to fulfil and, if this occurred in many localities, it would have the effect of creating a nucleus of population which would remain hostile to us for a long time.

» In rendering an account, either in their monthly reports or in special reports, the District-commissioners or chiefs of zones, must point out in what manner such differences as may have arisen were settled, or at least they must give information as to any negotiations which may have been entered upon with a view to concluding peace.

» Any agents who shall infringe these regulations dealing with the course to be pursued in regard to the natives, will be prosecuted and dealt with according to law, without prejudice to the disciplinary penalties to which they are liable.

» The blacks must be treated not only with humanity, but

with benevolence. The strictest justice must always and everywhere be our line of conduct towards them, as well for the natives who are not in our service as for those employed by the State in any capacity whatsoever. Our agents are strictly forbidden to act illegally, *i. e.* to exceed the disciplinary penalties provided, or the punishments contained in the Penal Code for such violations of discipline or offences against the law, as our servants and particularly our soldiers may be guilty of.

» When the penalties have been inflicted, they must be undergone in the manner prescribed by law.

» Whatever be the circumstances in which the agents are situated, they cannot place themselves above the law and inflict in an arbitrary manner penalties that the offences proved do not legally involve.

» The native killed in fighting our troops must receive decent burial and his body must be respected. Any soldiers who shall violate these regulations will be indicted before a Court Martial and dealt with according to law.

» All our troops must be duly informed of the Decree of September 18, 1896, and must also be made to understand in what horror Europeans hold the barbarous practices to which the natives are addicted.

» If it is proved that the commanders of troops had not carried out the above-mentioned duties, they render themselves responsible for the offences of their soldiers.

» The Government attaches the greatest importance to the observance of the instructions which formally prescribe, in case of hostilities with natives, respect for the property and families of the latter, and prohibit the capture of native non-combatants.

» All native prisoners of war shall be returned to their respective villages, as soon as peace has been concluded. This rule must be rigorously enforced. Any infringement of it would not only imperil our own safety but entail the loss of any salutary influence which the State may exercise over the natives.

» District-commissioners will closely watch the agents under their command, to prevent their committing any abuse of their power.

» They will also see that the officers who serve on Courts-Martial confine themselves within the limits of the law.

» All agents accused of arbitrary conduct in respect to natives shall at once be deferred to justice, provided the action complained of constitute a legal offence; if otherwise, some disciplinary penalty must be imposed. Attempts against persons or property renders the author thereof liable to instant dismissal, without prejudice to prosecution in the proper Courts.

As a rule all agents under authority shall, before undertaking any grave matter, advise with their several chiefs, unless they be prevented from so doing by force of circumstances.

The agent who acts on his own initiative is held responsible for such action whatever be the consequence to himself. »

The Government is firmly convinced, says the report to the King-Sovereign of January 25, 1897, that these instructions have been generally obeyed; in the rare cases in which they have been violated, it has not hesitated, nor will it hesitate in the future, to punish the agents responsible, with disciplinary or judicial penalties.

CHAPTER XIV.

Navigation and river system.

At the time of the foundation of the Congo Free State, communication between Europe and the Congo was rudimentary. A few ships from Liverpool or Lisbon, and, later on, a few steamers from Germany and Holland, maintained occasional communication with the Congo Coast, where there was no settlement beyond Fuka-Fuka. No means of transport into the interior existed, except by canoe or by road, and this latter was nothing more than a badly cleared track. Portage was the only possible means of transport by this track. Two or three facts will suffice to show conclusively the transformation which has taken place up to the present in the economic equipment of the Congo. We will begin by setting forth the present condition of ocean and river navigation.

1. — MARITIME NAVIGATION.

The maritime navigation between Europe and the Congo State has made great strides.

As early as 1891, the Congo State acting in union with the commercial companies trading within the territory, made a contract with a syndicate of English and German lines to establish a monthly service between Antwerp and

Matadi with a steamer starting on the 6th of every month. A few years later, in 1895, under the auspices of this syndicate, two shipping Companies were formed at Antwerp, viz. : *La Compagnie belge maritime du Congo* and *La Société Maritime du Congo* which together provided a monthly service of steamers sailing under the Belgian flag.

The following lines of steamers now run between Europe and the Congo.

1. *La Compagnie belge maritime du Congo*; 2. *L'Empresa Nacional de Navigação*, of Lisbon; 3. *Les Chargeurs réunis*, of Bordeaux combined with Fraissinet & C^o, of Marseilles; 4. The *Woerman Linie*, of Hamburg; 5. The African Steamship C^o, combined with the British and African Steam Navigation C^o.

Important harbour works have been carried out at Banana, Boma, and Matadi. Several light signals have been established at the mouth of the Congo to mark the entrance and the channels.

A pilot service has been organized at Banana. The whole of the Lower-Congo, from Banana to Matadi, has been beacons by means of buoys. A dredger is at work deepening certain channels, notably that of Mateba, in view of the low-water season. A regular service of steamers plies on the Lower-Congo, and the Government boats go regularly to Landana to meet the Portuguese mail.

The *Bulletin officiel de l'Etat Indépendant du Congo* publishes every three months lists of the number of vessels entering and leaving the ports of Banana and Boma. This movement which 15 years ago amounted to a tonnage of 166,028 entries, and 163,716 departures annually, now amounts to nearly 500,000 tons.

2. — RIVER NAVIGATION.

The flotilla on the Upper-Congo is particularly important. The first steamers launched on the upper river were only of 5 tons burden : the component parts had been carried on men's backs along caravan roads long before the construction of the Railway of the Cataracts. Nevertheless in spite of their small dimensions these vessels rendered invaluable service.

The construction of the railway from Matadi to the Pool could not fail to cause considerable development of the river transport.

Before the completion of the line, the State had launched a dozen boats of 5 tons burden on the upper river (each of these boats allowing of an average of 600 loads weighing together 23,500 kilog.)—one of 23 tons burden and 4 of 40 tons.

On the completion of the line, the necessity ceased for considering the weight of the loads to be conveyed to the Pool, and a new type of craft was chosen, offering the greatest advantages in point of the services to be rendered, and having regard to the varying conditions of navigation under which the working would have to proceed. The principal questions to be solved were the minimum speed of the steamers, the draught, the propelling system and the shape of the vessel. After numerous experiments, the State decided on *Sternwheels* which offered marked advantages over any other type of craft.

The Government flotilla on the Upper Congo at present consists of 32 boats of the following tonnage :

| | 10 | boats | of | 5 | tons | burden | each. |
|--|----|--------------------|----|--------------------------------|------|--------|-------|
| | 1 | » | » | 10 | » | » | » |
| | 2 | » | » | 17 ¹ / ₂ | » | » | » |
| | 6 | » | » | 22 | » | » | » |
| | 5 | » | » | 40 | » | » | » |
| | 1 | » | » | 60 | » | » | » |
| | 3 | » | » | 150 | » | » | » |
| | 2 | tugs and lighters, | | 30 | » | » | » |
| | 1 | » | | 50 | » | » | » |

1 dredger is also at work on the upper river.

Several *Sternwheels* of 500 tons, intended for the transport of materials for the railways to the Great Lakes, will shortly be in use.

Amongst these steamers, three distinct types are especially conspicuous, the steamers of 22, of 40 and of 150 tons.

The variety in the size and build of these boats arises partly from the phases through which the transport service has had to pass, before the completion of the railway of the Cataracts, and partly from the fact that they were acquired by the State at various times and under conditions which had nothing in common with the usual conditions under which a navigation service is established. The State however, has endeavoured to regulate the services of the various boats so as to attain a maximum of useful results.

A complete organization of points of call and ports of registry has been established ; and at various places, dépôts where the great vessels land the supplies and take on board the cargo intended for Leopoldville.

To and from these dépôts also the steamers of lesser tonnage which supply the ports of registry bring their cargoes and take their freight. Here too still smaller steamers sometimes take in supplies before penetrating to the confines of the lower navigable tributaries of the river.

All the steamers are supplied with wood, and at regular intervals posts are established where workmen in the service of the State gather stores of fuel for passing steamers. There can be no fear of these reserves being exhausted, for the State sees that the forest is replanted as soon as the trees are cut down.

Let us add that the most intricate parts of the river have been carefully explored and buoyed, and that the State hydrographical survey, having first provided for immediate needs, is now daily improving its work.

Since 1896 the Government has established a regular service of navigation between Leopoldville and the Falls (twice monthly). So as to ensure service on the navigable stretches beyond the Falls, steamers have been launched on the rivers Lualaba, Itimbiri and Ubangi. Moreover, a sailing vessel has been launched on the Tanganika, and a steamer on the Nile.

Native rowers have also been organized in certain districts and their work has proved altogether satisfactory.

Thus the hydrographical system of the Congo, which is only inferior in extent to that of the Amazon, is utilized to the best advantage.

The river steamers, belonging to the State or to private persons, at present plying on the Upper-Congo number 102. Referring to the navigation movement on the Upper-

Congo Herr von Puttkamer, Governor of Kamerun, says :

« The Congo State, having undertaken the superintendence of trade, can dispose of a splendid flotilla of more than thirty steamers of different size. Nevertheless the State cannot meet all its freighting and transport demands, and all the firms established here are building private steamers ; the greatest animation reigns in the dockyards. The energy and practical skill displayed here deserve the highest admiration (1). »

(1) *Deutsches Kolonialblatt*, April 15, 1899, p. 274.

CHAPTER XV.

Railways and Means of communication by land.

1. — RAILWAYS.

The vitality of the Congo Free State is emphasized by public works of which our era may well be proud, and which have completely transformed the conditions of life in Central Africa. It is no longer necessary to prove how intimately the question of railways is connected nowadays with the introduction of civilization into new countries, and how much it contributes to enhance the value of the rich products of their virgin soil (1).

It is hardly necessary to point out that the creation of a railway intended to connect the vast navigable system, provided by nature in Central Africa, with the sea, was indispensable to the prosperity of the Congo State. The obstacles which stood in the way of such a gigantic enterprise were considerable : money had to be found ; the enterprise in

(1) See « Bibliothèque internationale coloniale », *Les Chemins de fer aux colonies et dans les pays neufs*, I, p. 311. *Rapport à l'Institut colonial international*, par le lieutenant-colonel THYS, 28 mars 1899.

itself was of very doubtful issue. Men of initiative, competence and energy, with Lieutenant-Colonel Thys at their head, devoted themselves to this undertaking and were generously supported by the State. A first Convention, having for its primary object the prospecting of the line connecting the Lower-Congo with Stanley Pool, was concluded between the State and the *Compagnie du Congo pour le commerce et l'industrie*, on March 26, 1887. The final Convention is dated November 9, 1889.

Belgium granted to the Company the help of her money and credit. The law of July 29, 1889, authorized the Belgian Government to invest in this enterprise to the extent of ten millions represented by 20,000 bonds of 500 frs. each, bearing $3\frac{1}{2}\%$ interest, and redeemable at par in ninety-nine years. The first corps of engineers left Antwerp on October 11; the first excavations were begun in March, 1900.

It is needless to recall the difficulties encountered and surmounted by the builders of the Cataracts Railway.

It was not only in the Congo that their work met with serious obstacles. Belgium gave valuable help a second time, and on May 29, 1896, a law was passed approving the convention of March 27-April 10, of the same year, by which Belgium increased her subscription from 40 to 15 millions, and gave a Treasury guarantee for an issue of 10 millions in bonds. After eight years of untiring labour the railway was completed. The opening ceremony took place between July 2 and 8, 1898, in presence of the official delegates of ten Governments.

The railway is 400 kilometres long. The track has a narrow-gauge of 0.75 mètre. The construction cost

about 75 million francs, instead of the 25 millions originally estimated.

Nobody undervalues to-day the services rendered by this railway to Congolese enterprise, or the services which it will render in the future. No one can deny that, while it effectively serves the white man's interest, it has also greatly improved the condition of the natives by suppressing portage and allowing the blacks to undertake less painful and more remunerative work. The Congo Railway is the necessary link between the Congolese estuary and the Upper-River, the conveyance of an inexhaustible wealth, and at the same time one of the most powerful instruments of African civilization (1).

The construction of the Mayumbe Railway was next decided upon for the purpose of improving that country. This railway connects Boma with Lukula, eighty kilometres distant, and has been worked since 1901.

Its construction lasted three years. The grant of the concession dates from September 21, 1898. The gauge of the track is 0.60 mètre.

The State then undertook the plans of the railway which the *Compagnie des chemins de fer du Congo supérieur aux Grands Lacs africains* has just begun to lay on a one mètre gauge. The agreement between the State and the Company is dated January 4, 1902. The new lines, three

(1) We have previously examined (p. 114) the questions which the Convention dated November 4, 1901, may raise about rates. See also our Report laid before the Senate, on July 26, 1901, § 7 : *La Question du chemin de fer du Congo au point de vue du droit de rachat et de la diminution des tarifs de transport.*

in number, have a total proposed length of about 1,600 kilometres.

The first, from Stanleyville to Mahagi, runs through the whole of the northern part of the Province-Orientale, by way of Bafwaboli, Bafwasende, Avakubi, Mawambi and Iremu. Its main object is to develop the splendid forests through which it runs. The survey, begun in 1900, is now completed and the line has a total length of 1,120 kilometres.

The second line also has Stanleyville as terminus; it runs towards the south to Ponthierville, very closely following the course of the Congo.

There are several rapids between Stanleyville and Ponthierville which make navigation by steamer impossible. This section of line will render like service to that between Matadi and Stanleyville. Its principal object is to connect the navigable courses of the Lualaba river by avoiding the falls which form an obstacle to navigation. The extension of the work beyond Ponthierville will depend upon the extent to which the river is found navigable for large steamers.

The third projected line is destined to connect a spot on the river near Nyangwe-Kasongo with Lake Tanganika. But the survey is not yet completed.

The State has recently sent out a new surveying party with the object of prospecting for a line between Mahagi and Redjaf, on the Nile, for a length of about 300 kilometres. This line will be an extension of that which connects Stanleyville with Mahagi, and will thus connect the Congo with the Nile.

It has also been decided, and orders have been issued to

that effect, to prepare plans for a railway connecting Mahagi with the northern part of Lake Tanganika.

Lastly, in the vast territory of the Kantaga, an expedition is at work on the survey of a railway which will start from Lake Kasali, on the Lufira, and run towards the southern frontier. Approximately the total length of this line will not be less than 450 kilometres.

The progress made by the State, as regards railways, is most remarkable. It has attracted the attention of all persons interested in colonization. It is superfluous to recall the unanimous commendations which these railways have received. The facts speak for themselves. After ten years, in a country full of difficulties and with limited facilities, nearly 500 kilometres of railways have been laid and are in full operation; the building of 1,600 kilometres of the Upper-Congo Railways is commenced, and plans for more than 1,200 kilometres have been drafted and are on a fair way to completion.

2. — STATE ROADS.

The impetus given to the construction of railways does not imply that the Government has lost sight of the necessity for providing other means of communication by land. Everywhere the Government has improved the roads used by caravans, and modern roads have been constructed in several districts.

In order to entirely abolish native portage, the Government is preparing a service of motor cars, and several of these conveyances will shortly be sent to Africa. Special roads for the use of motor cars are being constructed in

Uele and in the region of the Cataracts. Their total length is from 350 to 400 kilometres. When they are completed—and this will not be long delayed—the railway from Matadi to Stanley Pool will be connected with the Kwango, and the Congo river with the most distant parts of the country.

Other roads are being opened along the Lualaba, so as to skirt the falls, from Lusambo towards Pueto Lake Moere) and from Kasongo to Lake Tanganika.

CHAPTER XVI.

Economical auxiliary Equipment. — Telegraphs and Post-Offices.

1. — TELEGRAPHS.

Several telegraph lines have been established :

1. From Boma to Lukula, 80 kilometres ;
2. From Boma to the Equator, 1,200 kilometres ;
3. From Lirala to Umangi, 22 kilometres ;
4. From Kasongo to Sungula, 230 kilometres.

The Government is having experiments made with Marconi's system between Banana and Ambrizette. Should these experiments prove satisfactory, the existing telegraph system will probably be supplemented by wireless telegraphy.

2. — POST-OFFICES.

The postal service in the Congo was one the first services to be established in that State; its organization dates from 1885.

In pursuance of article 7 of the General Act of the Berlin Conference, the State joined the Universal Postal Union. The Government has been officially represented at the various postal Congresses held since the State's establishment.

The organization of the postal service within the territory

is already well developed. The mails are forwarded promptly and safely to the most distant localities.

They are conveyed partly by rail and partly by State boats or by carriers, in places where no other means of conveyance are available

Thanks to the lines of navigation whose steamships call regularly at the Congo ports, the international system has been developed concurrently with the commercial activity of the Congo.

The following statistics indicate the importance of the home and foreign postal service :—

Correspondence received and despatched in 1886 numbered 33,140 packets; 74,988 in 1890; 206,976 six years later, in 1896; and 372,007 in 1901 of which 274,114 were letters. The number of exchange offices, collection and branch-offices is 25.

The postal service, which at the outset was but rudimentary and was limited to the reception and despatch of letters, printed matter, samples, etc., was completed in 1887 in pursuance of a Convention entered into with Belgium on February 28 of that year. The necessity of organizing a system of postal orders was recognised later on. Agreements in this respect were concluded with Belgium on May 13, 1893, and November 24, 1898. The results obtained from the two newly-established services show that they met a real want. It is noteworthy that the postal business increases every year in the number of parcels and postal-orders, and it is not improbable that other additions, such as postal money-collections, subscriptions to papers, etc. will be required within a comparatively brief period.

CHAPTER XVII.

Trade.

Before the State was founded, the trade of Central Africa was chiefly in human beings. The slave was at the same time the instrument of labour, the chief capital, the vehicle or means of transport, the common currency in exchange and the usual tribute given to satisfy the covetousness of native chiefs. He was the standard of wealth and the source of power. In order to estimate thoroughly the influence of the slave-trade as an economical factor in barbarous communities, as compared with the trade system of civilization, it would be necessary to imagine dealings in some object representing all these uses with us. It is thus easy to understand that the suppression of the slave-trade is closely bound up with the problem of substituting for this unlawful traffic some other traffic able to replace it, that is to say, some trade founded upon the natural resources of the country.

The French firm *Regis* (Daumas et Cie, succ.) in 1858, and the *Afrikaansche Handelsvereniging*, of Rotterdam, in 1860, were the first factories established at the mouths of the Congo. A few followed English and Portuguese firms a little later. These establishments on the coast

represented nearly the whole of the trade relations of the Congo with Europe.

The three Belgian companies : the *Mateba Syndicate*, the *Sandford Exploring Expedition* (capital 300,000 francs) and the *Compagnie du Congo pour le commerce et l'industrie* (capital 1,000,000 francs) were not formed until 1887. There are now 48 Belgian companies and 14 foreign companies carrying on business in the Congo, their capital being 136 millions of francs.

The import and export trade of the Congo Free State has developed to a wonderful extent. The following facts are significant.

1. — THE EXPORTS.

The Free State has only been able to draw up statistical statements of the native products exported from its territory, since July 1, 1886 when export duties were established. These statements are regularly published in the *Bulletin officiel*.

A perusal of the figures mentioned in those statements shows that during the last 15 years, the exports have increased almost uninterruptedly. In 1887 indeed the value of exports amounted to 1,980,441.43 francs and in 1901 it amounted to 50,488,394.31 francs, *viz* : a difference of 48,507,952.86 francs in favour of the latter year, which shows an increase of 2,449 per cent.

India-rubber is the most important of exported products. In 1887, the quantity of exported india-rubber was 30,050 kilog. valued at 116,768.80 francs and in 1901, 6,022,733,000 kilog. valued at 43,965,950.90 francs.

The products mentioned in the last statistical statement of the *Bulletin officiel* are :

Earth-nuts, coffee, india-rubber, copal gum, oils and palm nuts, ivory, cocoa, tobacco, rice, untanned skins, etc., etc.

The Congolese products are sent for the most part to Antwerp.

The following is the statement of exports for the year 1901 compared with the exports of the previous years :

| YEARS | SPECIAL TRADE | GENERAL TRADE |
|-------|---------------|---------------|
| 1883 | 886,432.03 | 3,456,050.41 |
| 1887 | 1,980,441.43 | 7,667,969.41 |
| 1888 | 2,609,300.35 | 7,592,348.17 |
| 1889 | 4,297,543.85 | 8,572,519.19 |
| 1890 | 8,242,199.43 | 14,409,781.27 |
| 1891 | 5,353,519.37 | 10,535,619.25 |
| 1892 | 5,487,632.89 | 7,529,979.68 |
| 1893 | 6,206,134.68 | 7,514,791.59 |
| 1894 | 8,761,622.15 | 11,031,704.48 |
| 1895 | 10,943,019.07 | 12,135,636.16 |
| 1896 | 12,389,599.85 | 15,091,137.62 |
| 1897 | 15,146,976.32 | 17,457,090.85 |
| 1898 | 22,163,481.86 | 25,396,706.40 |
| 1899 | 36,067,959.25 | 39,138,283.67 |
| 1900 | 47,377,401.33 | 51,775,978.09 |
| 1901 | 50,488,394.31 | 54,007,581.07 |

2. — THE IMPORTS.

Statistical statements of imports have only been drawn up accurately since May 9, 1892, when the collection of import duties first took place. Hitherto it had not been possible to make an exact return of merchandise imported into the territory of the Congo Free State.

In 1893, when the first complete statement was made,

goods to the value of 9,175,103.34 francs for use in the Free State had been declared. In 1901, the amount of such goods reached 23,102,064.07 francs, showing an increase of 13,926,960.73 francs or a little above 152 %.

The chief articles imported are : textiles, food-stuffs, arms, machinery, building materials, clothes and linen, ironmongery, glass-ware.

The quantity of goods imported from Belgium is far greater than that imported from any other country. The Belgian manufacturers have patiently studied the needs of the native customers and of the residents, and they have endeavoured to meet them in every respect. Since 1892, Belgium has held the first rank as to imports, and from that date to the present, her commerce with the Congo has not ceased to increase. The English maxim : « Trade follows flag » is thus found once more to be true. Below we give the statement of imports for the year 1901 compared with the imports of the preceding years :

| YEARS | SPECIAL TRADE | GENERAL TRADE |
|-----------------------------------|---------------|---------------|
| From May 9 to December 31 1892 | 4,984,455.15 | 5,679 195.16 |
| 1893 | 9,175,103.34 | 40,148,418.26 |
| 1894 | 11,194,722.96 | 41,854,021 72 |
| 1895 | 10,685,847.99 | 41,836,033.76 |
| 1896 | 15,227,776 44 | 46,040,370 80 |
| 1897 | 22,181,462.49 | 23,427,497.83 |
| 1898 | 23,084,446.65 | 25,185,138.66 |
| 1899 | 22,325,846.71 | 27,402,581.48 |
| 1900 | 24,724,108.91 | 31,803,213.96 |
| 1901 | 23,102,064.07 | 26,793,079.37 |

The development of exports and imports will undoubtedly become still greater when the railways contemplated

for the Upper-Congo shall put the whole territory of the Free State in easy and rapid communication with the coast.

In their report to the King-Sovereign, dated July 15, 1900, the Secretaries-General, after having pointed out that imports and exports had alike increased, went on to say :—

« These results must certainly be ascribed in great part to the fact that the country is now more widely and more regularly organized. Indeed throughout all the provinces the Government is continually increasing and consolidating its power. The occupation of the country is being methodically developed by the establishment of numerous stations and posts connecting one with the other and thus forming a vast network of settlements which are so many centres for diffusing European influence. »

CHAPTER XVIII.

Missions.

« It is easier to lead than to drive. » Missionaries in the Congo as elsewhere are called upon to follow this precept and to exercise their influence, not by force but by persuasion. What these devoted and disinterested men, who go far from their homes to evangelize primitive peoples, wish to communicate to their black brethren in a degree suitable to their intelligence, is something of their own spirit of self-abnegation, something of their own intellectual and moral superiority, and hence their work justly wins the respect of all.

The spectacle of the marvellous material progress of which our century is legitimately proud should not make us forget but should rather remind us that the ideal too, is a power. And the keenness of the strife of opinion which agitates civilized States must not make us lose sight of the power of Christian ideas and institutions as instruments for the civilization of races plunged in barbarism. « History shows that Christianity is endowed with a special aptitude for raising the moral standard of barbarous nations and for causing them to advance rapidly in the path of civilization (1). » The marvellous capacity for expansion posses-

(1) BANNING, *L'Afrique et la Conférence géographique de Bruxelles*, p. 118.

sed by modern civilized nations is conspicuously apparent at the present time, and is assuming world-wide development. The question of the influence of this civilization on primitive peoples has now to be considered in very different circumstances from those which formerly governed the relations between civilized and uncivilized men in the days when the contact with civilization was fatal to native races. Extermination of the aboriginal inhabitants was to the interest of the colonists of America and of Australia who desired possession of the arable land, and the principle of the old law of conquest favoured this result. But at the present time, policy and interest combine with sentiments of humanity to prevent the extermination of the natives who in tropical countries are the natural and necessary associates of all European colonization. Now, in order that this combination may produce the best results, it is well that, side by side with those enterprises in which a desire for profit predominates, and on the development of which the prosperity of the countries colonized so greatly depends, other institutions and of a very different kind should exist : institutions inspired by the purest spirit of disinterestedness and whose only aim is to evangelize and regenerate the blacks. It is for this reason that the Christian apostolate should occupy an important place in every modern colonial settlement.

Limited in its sphere of action, limited also in its effects by the backwardness of the natives, the influence of the missions remains none the less considerable in the formation of new generations freed from barbarism, in improving the customs of savage tribes, in encouraging work among the natives and the development of the industrial and agri-

cultural prosperity of the country. Wherever that influence is exercised, remarkable results are attained in the present, and precious seed of regeneration is sown for the future. The devotion displayed in this respect, by so many persevering and unselfish men is worthy of general admiration.

The Powers assembled at the Berlin Conference made a point of recognizing in explicit terms the pacific influence of Christian missions, and they desired that such should be honoured and protected. And in these views, the Government of the Congo Free State gave ample proof that it fully concurred. For not only did it guarantee equal protection for persons and property to all the inhabitants of its domain, as well foreigners as subjects, but fully realising the vastness of the task it had assumed :—the civilization of the natives, and also the need, in view of its achievement, of giving cordial and generous support to all institutions with kindred aims, it did not hesitate to make its own the Declaration of the Powers inscribed in these words in the sixth clause of the Berlin Act :—

« All religious, scientific or charitable institutions and undertakings created and organized to instruct the natives and to bring home to them the blessings of civilization or which in any way tend to the accomplishment of these objects, shall be granted protection and favour, without distinction of race or creed. »

Thus, protection is granted to all civilizing institutions formed with the object mentioned at the Conference and this without distinction of nationality or creed. Special protection is promised to three distinct classes of workers in the cause of African civilization :—Missionaries, scientists and explorers. The author of this latter suggestion.

Count de Launay, Italian Plenipotentiary, justified his proposal as follows :—

« It is to scientific men and explorers, that we owe the marvellous discoveries made during these latter years in Africa. The missionaries, for their part, lend a valuable assistance in winning these countries over to the civilization which is inseparable from religion. It is our duty to encourage them, to protect them all, in their researches and expeditions, both present and future, and in a work in which their efforts are combined and completed (1). »

Concurring in the opinion expressed by Baron Lambertmont « that the principle of the separation of Church and State adopted by some Governments, permitted them indeed to protect but not to help religious enterprises subject only to ecclesiastical jurisdiction, » the Conference refrained from imposing as an international duty common to the Powers the obligation of directly helping the work of the missions. Thus, it follows, that to protect is an international duty but that to assist comes within the province of national law, and that in this matter the various governments can act as they deem fit, provided they assure to all forms of worship the liberty and protection guaranteed to them under all circumstances of the Conference.

The Congo Free State has always considered the help of Christian missionaries « as indispensable to the realization of its views (2). » One of its first cares was to consider the evangelization of the people living within its territory.

(1) *Protocols and General Act of the West African Conference : Blue Book. Africa* n° 4 (1885) p. 43.

(2) *Report of Baron van Etvelde to the King-Sovereign*, January 23, 1897.

The first missions established in the territory at present dependent upon the Congo State were Protestant missions. In 1877 the *Baptist Missionary Society* of London was established in the Lower Congo. In 1879 the *Livingstone Inland Mission* was established in the same district. Its object was to penetrate as far into the interior as possible, but it only established a few posts and ended by amalgamating with another Missionary Society. Then came the *London Missionary Society* which had two posts on the Tanganika, but transferred them later to British territory; the *American Baptist Missionary Union* which dates from 1883 and with which the *Livingstone Inland Mission* was incorporated; the *American Presbyterian Congo Mission*, the *Foreign Christian Missionary Society*; the *Bishop Taylor Self-Supporting Mission*; the *International Mission Alliance*; the *Congo Balolo Mission*; the *Swedish Missionary Society* and the *Guaranze Mission*.

All these missions possess considerable resources and their members are numerous. The most influential are the International Mission Alliance, the Balolo Baptists, the American Baptists and the British Baptists and this last is also the most ancient.

According to information contained in the recent book by Dr. Harry Guinness, *Our mission on the Congo* (1), there are at present 211 Protestant missionaries in the Congo. There are besides, 283 native evangelists and 327 native catechists. There are 40 principal stations and 192 mission posts; 6,021 communicants and

(1) THESE THIRTY YEARS, special number, January and February 1903, *Our Mission on the Congo*, by Dr. HARRY GUINNESS, missionary, p. 38.

4,470 catechumens. The attendance at Sunday schools numbers 5,641 natives and at the day schools 10,162.

With regard to the Catholic religion, the first missions established in the Congo were those of the *Pères blancs d'Afrique*, of Cardinal Lavigerie and those of the *Pères du Saint-Esprit*. The latter have emigrated into French territory. The Belgian branch of the *Pères blancs d'Afrique* retains the Apostolic vicariate (1) of the Upper Congo in virtue of a Brief of the Holy See dated December 30, 1886.

On the 8th of March 1888, the Apostolic Vicariate of the Belgian Congo was established. It was confided to the *Pères de Scheut* and it originally extended over the whole territory except the portion reserved to the Belgian *Pères blancs*.

Other congregations to-day share with Scheut the evangelization of the territory, to wit : the *Society of Jesus* to which, by decree of the Propaganda, dated April 8, 1892, the eastern Kwango was assigned; it was erected into an Apostolic prefecture on January 31, 1903; the *Chanoines prémontrés de l'abbaye de Tongerlo*, who have charge of the Apostolic Prefecture of Uele, established on May 12, 1898; the *Trappistes*; the *Rédemptoristes*; the *Prêtres du Sacré-Cœur*.

Several congregations of nuns help in the work of evangelization : the *Sœurs de Notre-Dame of Namur*; the *Sœurs franciscaines, Missionnaires de Marie*; the *Sœurs de la Charité*, of Ghent; the *Sœurs du Sacré-Cœur de Marie*,

(1) *Vicariat apostolique du Haut-Congo.*

of Berlaer-lez-Lierre; the *Sœurs Trappistines* and the *Sœurs blanches*, of Cardinal Lavigerie.

According to a recent statement published by the *Mouvement des missions catholiques au Congo* (1) and complete only in certain details, the staff of the Catholic missions comprises 119 priests, 41 lay brethren and 84 sisters, making a total of 244. These missions comprise in all 18,973 Christians, 24,731 catechumens and 5,515 children.

The State helps the missions by granting them the enjoyment of the land necessary for cultivation and subsidies, or reduction of taxes. We have already pointed out this fact in the chapter on finance. The instructions given to the agents direct them to help the development and the prosperity of the missions, by all means in their power; and in the periodicals issued by the evangelizing missions we find considerable evidence that the missionaries of the various sects are grateful for the practical help accorded to them by the government and its officials.

At the beginning of January 1903, the British Baptist Missionary Society sent to Brussels a deputation to present an address to the King-Sovereign expressing similar feelings of gratitude. The text of this address is as follows :—

« The Committee of the British Baptist Missionary Society, of London, desire most respectfully to address Your Majesty as Sovereign of the Congo Free State, and to express their grateful acknowledgments for Your Majesty's gracious and helpful sympathy with all wisely considered efforts put forth for the enlightenment and uplifting of Your Majesty's native subjects living within the territories of the Congo Free State...

(1) *Le Mouvement des missions catholiques au Congo*, février 1903, p. 62.

» In the prosecution of these labours, the Committee of the Baptist Missionary Society desire gratefully to acknowledge the many signal and helpful proofs they have received of Your Gracious Majesty's approval and support; and very specially at this juncture they are anxious to express to Your Majesty their respectful appreciation of the great boon granted « to all religious, scientific and charitable institutions, » by the reduction of direct and personal taxes by 50 per cent, from, on, and after the first day of July last, as proclaimed by Your Majesty's command in the May and June issues of the *Bulletin officiel de l'État indépendant du Congo*, which the Committee regard as a further and significant proof of Your Majesty's desire to promote the truest welfare of Your Majesty's Congo subjects, and to help forward all institutions calculated to produce enduring and beneficent results. »

CHAPTER XIX.

Science.

A high scientific and humanitarian ideal promoted the Congolese enterprise and the Free State has always made it a point of honour to remain faithful to this main and initial principle. It is our purpose in this chapter to offer the reader a short account of the remarkable movement established by the State, or developed under its guidance, with a view to the increase of scientific knowledge relating to central Africa ; and we shall endeavour to summarize the humanitarian measures which the State has promoted.

Under the heading of social science we must first notice that a wide ethnologic and anthropologic enquiry was undertaken by the State throughout its territory. Complete query papers were sent to every official, and the replies received by the central Government constitute at the present time a source of information of high sociological interest. Several interesting monographs have already appeared (1).

(1) *L'organisation politique, civile et pénale de la tribu de Mousseronghes*, par M. BAERTS. — *Le district de l'Aruwimi et Ouellé*, par M. ROGET. — *Léopoldville*, par le commandant CH. LIEBRECHTS. — *Le district d'Upoto et la fondation du camp de l'Aruwimi*, par le lieutenant DHANIS. — *Le district de Stéphanieville et le district minier de M'Boko-Songho*, par E. DESTRAIN. — *Le Mayombe*, par FUSCH.

The *ethnological collections* at the *Tervueren-Museum* (1) comprise no less than 7,796 exhibits. Among them are many objects of rare and curious workmanship from which may be formed some estimation of native art and industry in the Congo Basin (2).

From the point of view of physical science, properly so called, there has been hardly any exploration, whatever may have been its special object, which has failed to yield interesting results. In order to centralize the valuable information which it was in a position to gather, the State established in the Congo nineteen scientific stations provided with all the necessary materials.

In Belgium, the Museum of Tervueren, besides its commercial division, possesses several thousand zoological, mineralogical and geological specimens of the highest interest.

The herbarium of the Congo Free State in the Brussels Botanical Gardens, under the curatorship of Messrs. Durand and De Wildeman, contains eight thousand plants. The number of new species catalogued by Messrs. Durand and De Wildeman is about four hundred.

(1) At the Royal palace of Tervueren, near Brussels.

(2) Vide especially *l'Etat Indépendant du Congo à l'Exposition Bruxelles-Tervueren en 1897*, a work published under the direction of Commandant Liebrechts, edited by Lieutenant Masui, with illustrations by Amédée Lynen, and various notices by Professors Stainier and N. Laurent, Dr. Drycpont, Lieutenant de la Kethulle, Koller, A. de Haulleville, Meulemans and Seeldrayers. — An ethnographical study of the whole of the *Collections of Tervueren* has been begun and a first volume of 150 pages containing over 500 illustrations has appeared : it deals with musical instruments and will be followed by a dozen others referring to the following subjects : dress, dwellings, hunting and fishing, agriculture, navigation, trade, industry, war, state of society.

On the other hand, a special committee, *la Commission permanente d'études du Musée de Tervueren* (1), composed of members belonging to every department of science, has been formed by the Government and the State is publishing, with the help and collaboration of other specialists, a very remarkable series of scientific works under the following title : *Annales du Musée du Congo publiées par ordre du Secrétaire d'État* (2).

All the documents in the possession of the Government relative to the Congo climate—these are for the most part

(1) This Committee is divided into the following sections : 1. Botany, 2. Zoology, 3. Geology and Mineralogy, 4. Anthropology and Ethnography, and 5. Export Trade.

(2) The following are the titles of some of the books already published by the Free State :—

BOTANY.

Series I. — *Illustration de la flore du Congo*, par ÉM. DE WILDEMAN et TH. DURAND. Tome I^{er}, fascicules nos 1 à 8, 1898-1901, 96 pl.

Series II. — *Contribution à la flore du Congo*, par ÉM. DE WILDEMAN et TH. DURAND, 1899-1901.

Series III. — *Reliquie Dewevreanæ*, par ÉM. DE WILDEMAN et TH. DURAND, 1901.

Series IV. — *Études sur la flore du Katanga*, par ÉM. DE WILDEMAN. Fascicules nos 1 et 2, pl. I à XXVIII.

Les caféiers, par ÉM. DE WILDEMAN. Fascicule n° 1, 1901.

Observations sur les Apocynacées à latex, recueillies par M. L. Gentil dans l'État indépendant du Congo en 1900, par ÉM. DE WILDEMAN.

ZOOLOGY.

Series I. — *Matériaux pour la faune du Congo*. Tome I^{er} (complet). Poissons nouveaux du Congo, par G.-A. BOULENGER, 1898-1900, 56 pl.

Matériaux pour la faune du Congo. Tome II. Fascicule n° 1, 1901, pp. 1 à 48, pl. I à VI. — Batraciens et reptiles nouveaux, par G.-A. BOULENGER. Antilope nou-

due to Doctors von Dankelman, Etienne, Mense, Wolff, Briart, Dryepont, Vourloud, Bourguignon, etc.—, are reproduced, analysed or summarized in the important work published by the *Société royale de médecine publique* immediately after the « Congrès d'hygiène et de climatologie » held in Brussels in 1897. The value of these documents has been demonstrated in a very competent manner by Dr. Firket.

The learned works devoted to climatology, by Messrs. Lancaster, director of the Royal Observatory, and Meuleman, contain numerous hitherto unpublished observations, besides a list of all the works which had been published about the Congo up to August 1, 1898. In 1887, Monsieur Dupont, curator of the Brussels Royal Museum of Natural History, and Professor Cornet, of the Mons School of Mines, were engaged on geological studies at two extreme ends of the State.

It is impossible for us to give here a complete list of all the explorers who have devoted a portion of their travels to scientific research. Suffice is to mention Messrs. Cambier, Delporte and Gillis, Francqui, Hackansson, G. and P. Le

velle, par OLDFIELD THOMAS. — Fascicule n° 2. Additions à la faune ichtyologique du bassin du Congo, par G.-A. BOULENGER.

Les poissons du bassin du Congo, par G.-A. BOULENGER. 332 p., in-8°, 1 carte, 21 gr. et 25 pl. hors texte, 1901.

ETHNOGRAPHY AND ANTHROPOLOGY.

Series I. — *L'âge de la pierre au Congo*, par XAVIER STAMIER, 1899, fascicule n° 1, pl. I à VIII.

Series II. — *Les collections ethnographiques du Musée du Congo*, par TH. MASUÉ. Fascicule n° 1, pl. I à VIII, 1899.

Series III. — *Notes analytiques sur les collections ethnographiques du Musée du Congo*, publiées par la direction du Musée.

Marinel, von François Brasseur, Cabra, and Lemaire, thanks to whose numerous astronomical observations, we have now a map of the Congo basin which is not surpassed in any respect by those of the most explored and best known regions of Central Africa.

M. Droogmans, Secretary-General of the financial department of the Congo Free State, in his *Notices sur le Bas-Congo*, accompanying his large map on the scale of 100/1000, mentions no fewer than 256 sources of information on this portion of the Congo Free State territory (1). Among the principal scientific missions organized by the State, may be mentioned the following :—

DUPONT (2). — Geology 1887.

DELPORTE and GILLIS (3). — Trigonometrical survey (1890-1892).

GORIN and GRENFELL. — Astronomical surveying (Lunda) (1893-1896).

LAURENT (4). — Botany (1893-1894).

WILVERTH. — Pisciculture (1893-1896).

DEWEVRE. — Botany (1895-1897).

MICHEL. — Photography and Natural Sciences 1895).

LUJA and DECHESNE. — Botany (1893-1899).

DELHEZ. — Pisciculture (1898-1899).

WEYNS. — Zoology (1898-1899).

CABRA. — Trigonometrical survey. Astronomical surveying and Natural Science (Maymbe) (1895-1899).

LEMAIRE (5). — Trigonometrical survey, Zoology, Mineralogy, Botany (Katanga) (1897-1899).

(1) *Notices sur le Bas-Congo*, Bruxelles, 1891.

(2) *Lettres sur le Congo*, Paris, 1899.

(3) *Observations astronomiques et magnétiques exécutées sur le territoire de l'État indépendant du Congo*, Bruxelles, 1893.

(4) *Rapport sur un voyage agronomique autour du Congo*.

(5) *Quinze mémoires d'unant les résultats astronomiques, magnétiques et altimétriques effectués sur le territoire de l'État du Congo*, 1902. — *Journal de route de la mission scientifique du Katanga*, 1902.

BASTIEN. — Trigonometrical survey. Astronomical surveying (1901) (Eastern region).

CABRA. — Astronomical surveying and Natural Sciences (Kwango) 1901-1902.

ROYAUX. — Mineralogical studies and Natural Sciences 1902) (Northern region of Uele).

LEMAIRE. — Astronomical surveying (1902) (Northern region).

We have just mentioned Commandant Lemaire. His memoirs on the Katanga scientific expedition together with the work of Staff Captain Commandant Cabra, may be considered as models of exactitude and care. They are the most complete of any dealing with the same subject. The previous expeditions in Katanga of Messrs. Paul Le Marinel, Bia-Franqui, Delcommune and Brasseur, which had equally contributed their valuable quota of scientific materials, have been alluded to as most important by Messrs. Cornet and Didderrich, civil engineers. We cannot mention all, but we must not omit the *linguistic works* published by the missionaries of various religious sects; their special reviews often contain monographs of real scientific interest (1).

In connexion with all the above a copious « colonial literature » has grown up in Belgium, which includes amongst

(1) Among the linguistic works may be mentioned those of Messrs. Witterwulghé, the Reverend Holman Bentley, Baptist missionary, (*Dictionary and grammar of the Kongo language*, 1887-1893), the Reverend Mr. Whitehead, Baptist missionary (*Dictionary and grammar of the Bohangi language*, 1899); Father Cambier, Scheut (*Eléments de la langue congolaise*, 1893); the Reverend Jesuit Fathers who publish a monthly review in the Congolese language, *Ntetombo Eto*; the Reverend P. De Boerst (*Essai de grammaire Tabwa*); the Reverend Father Declercq (*Grammaire de la langue des Bena Lulua, éléments de la langue kanioka; vocabulaire français-kanioka et kanioka-français*). Besides which the State has edited a vocabulary of the French-kiswahili language.

many other important and valuable works, Mr. A. J. Wauters' excellent journal, *le Mouvement géographique*; *la Belgique coloniale*, a weekly review very ably edited by M. René Vauthier and that most interesting monthly publication, the *Bulletin de la Société d'études coloniales* (1).

Mr. A. J. Wauters *Bibliographie du Congo* containing as it does 3,800 classified references and substantial notes to boot, is in itself sufficient indication of the extent to which men's minds are at present occupied by the affairs of the Congo in Belgium. The Congo movement, if we may use the term, is only of recent origin, but it has already transformed Belgian public opinion anent Colonial questions. For the rest, the Government of the Congo Free State has never forgotten the interests of science. It has always shown itself the friend and protector of those devoted to scientific pursuit doing its utmost to second and stimulate their efforts and to bring them to a satisfactory result, firmly convinced that scientific research is, in some sense, the basis of human progress.

(1) Among the publications of this Society, we may note the second edition in three volumes of the *Manuel du voyageur et du résident au Congo*, edited under the direction of General DOXEY.

CHAPTER XX.

The Government as a Civilizer.

The Powers, in the Berlin Act, undertook a two-fold duty *viz.*, to do their utmost, on the one hand, to preserve the native races, and on the other, to promote their material and moral improvement.

Co-operation in the suppression of the slave-trade comes under the first heading and has, according to the terms of the Report made to the Berlin Conference « the character of a rigorous obligation. »

Co-operation in the suppression of slavery with that « caution » and those « periods of transitions »—which the Conference recognized as « indispensable »—comes under the second. « It is sufficient to note the end in view, » says the Report to the Conference in this connection ; « the local Governments must search for the means and adapt them to the circumstances of the times and surroundings. »

The Brussels Conference did not change this situation ; the distinction between slavery and the slave-trade still remained. What was done, was to concert sundry topical measures for putting an end to the latter, and also for pre-

venting as far as possible the importation of arms and spirits.

Those who were present at the Conference will call to mind how careful the Powers were to safeguard their independence in relation to the application of the measures in question in their respective dominions, and to prevent all possibility of outside interference in this respect.

It is well known that the 1st and 2nd articles of the Brussels Act, as the Report made to the Conference testifies, are of « a purely declaratory character. » They formulate « suggestions relative to the mode of spreading European civilization in the African continent. » The object of Article 3 « was to give fresh vigour to these declarations by determining to what extent the Powers were disposed to undertake engagements in order to ensure the realization of the programme they had traced out. » In the Belgian project of Article 3, the wording is as follows :—

« The Powers possessed of a sovereignty, a protectorate or a sphere of influence in Africa, confirming and giving precision to their former engagements, undertake to proceed by the divers means indicated in articles 1 and 2, with the repression of the slave-trade, each State in its respective possessions and under its own direction. And moreover, they promise their help to all such Powers as may be engaged in Africa in a like mission. »

In the final text, the force of the wording is considerably attenuated. It reads thus :—

« The Powers possessed of a *sovereignty or a protectorate* in Africa, confirming and giving precision to their former *declarations*, undertake to proceed *gradually, as circumstances permit*, either by the means above indicated, or *by any other means which they may consider suitable*, with the repression of the

slave-trade, each State in its respective possessions and under its own direction. *Whenever they consider it possible*, they will lend their *good offices* to the Powers which, with a purely humanitarian object, may be engaged in Africa upon a similar mission. »

The substitution of the word « declaration » for the term « engagement », in dealing with the provisions previously adopted by the Powers, was effected for the purpose of more adequately representing the meaning of the text of Article 6 of the Berlin Act. The words « by any other means which they may consider suitable » are due to France who desired that « the obligation should concern rather the end than the means of obtaining it. » The words « gradually, as circumstances permit » were proposed by Great Britain whose representative, after supporting the French suggestion, explained his own motion in these terms : « The British Government considers that an undertaking so vast as that which the Conference intends to attempt, can only be accomplished by a prudent and continuous policy and by an entire freedom of action as to the choice of the moment. » Lastly, the words : « whenever they consider it possible » were proposed by France with the following commentary : « It does not appear possible to bind oneself by an engagement which in certain cases might result in forcing on a Power the co-operation of a neighbouring Power, when the former party had not asked for such co-operation, and might have reasons for dreading it. » If we add that the German, British, French, Italian and Portuguese Governments declared that they made reservations as to the expenses the article might occasion, « not being empowered to pledge their governments' finances, » an exact estimate

of the conditions under which Article 3 was adopted, will be obtained.

Having thus, as it were, outlined the international side of the question, we would next bring to the reader's notice the measures taken by the Congo Free State for the protection of the native races and for the promotion of their moral and material welfare.

1. — SUPPRESSION OF THE SLAVE-TRADE.

For centuries, the slave-trade has been the great scourge of the African race, and the most serious obstacle to its progress. Circumstances placed the Congo State in the vanguard of the struggle against this iniquitous traffic, and the unflagging efforts which it made to fulfil the duty thereby incumbent upon it have at length been crowned by success.

We have already referred to the steps taken by the Congo State for the suppression of man-hunting and the commerce in human flesh prior to the meeting of the Brussels Conference, and it will be interesting to note that the same State was the first to carry out the recommendations of that conference as contained in Article 5 of the Brussels Act, issuing by Decree, as early as July 1st, 1891, a complete Code for the suppression of the slave-trade on land. This Decree deals successively with the capture of slaves, with slave trade proper, with money-lenders and receivers of stolen slaves, with slave-trading associations, attacks on liberated slaves, mutilation of male children, complicity, and finally with prosecution and trial of slave-trade cases.

The first years of occupation were chiefly devoted to suppressing the slave-trade on the Upper-Congo and its tribu-

taries and by means of cordons and flying columns the slave drivers from the interior, notably those from the Eastern and Southern provinces, were successfully held in check. The campaign against the Arabs which lasted from 1892 to 1894, resulted in the interception of the slave caravans which, until then, had carried on the trade in human flesh from the South and the East.

The effective occupation of the eastern provinces practically put an end to the infamous traffic in that quarter, and it was only on exceptional occasions that the troops had afterwards to repress raiding.

The Luabala-Kassai district, is an immense territory where the resources of the State did not permit the immediate establishment of cordons, so that other measures were adopted. When it was reported at Lusambo or Luluaburg that an outlying district was infested by raiders, a flying column was at once dispatched to the scene of action with orders to lose no time in clearing the land of their presence. It was under such conditions that encounters took place as late as 1901-1902 between our troops and the Kioko, Tungombe and Waboundu slave dealers from the Southern neighbouring territories. Stations too were established on the principal roads frequented by the slave-traders and especially at Wissmann Falls on the Kassai, at Kanda Kanda on the Luele, a tributary of the Sankuru Lubilash, and at Lufai on the Lufira, a tributary of the upper Luabala.

At present the barrier is practically complete in these parts, for stations have been established along the whole frontier, especially at Lake Dilolo and at Tenke on the extreme boundary of Katanga.

In the North, the incursions of the Dervishes and the Madhists had already been stopped. The great expedition sent to this district by the State dealt the slave-trade a formidable blow. On February 17, 1897, Commandant Chaltin, after traversing the whole of the Uele territory, captured from the Dervishes the stronghold of Redjaf on the Nile. The place was defended by three or four thousand soldiers, two thousand of whom were armed with modern rifles. The fighting was very severe and lasted six hours. Shortly after the occupation of Redjaf by our troops the Dervishes made fresh attempts to recapture their position, but without success. Since then no further incursions have been reported in this quarter.

Indeed we have probably heard the last of raiding on a large scale. The slave-trade, which prior to this time was one of formidable dimensions, appears to be now reduced to clandestine dealings occasionally carried on by a few southern traders.

« It is only fair to remember, » said Mr. Curzon, in the House of Commons on April 2, 1897, « that the Congo State has done a great work and by their administration the cruel raids of Arab slave-dealers have ceased to exist over many thousands of square miles (1). »

The State is in a position to take energetic steps if the slave-traders attempt to renew their depredations. The cause of civilization is thus gaining ground all along the line and the destinies of Central Africa are untrammelled by the yoke of the slave-dealer.

(1) *The Times*, April 3, 1897.

2. — MEASURES AGAINST THE IMPORTATION OF ARMS.

The experience of all nations which have intercourse with Africa has shown the pernicious and preponderating part played by fire-arms alike in slave-trade operations and in intestine warfare between native tribes; and this same experience has likewise clearly proved that the preservation of the African peoples whose existence it is the express desire of the Powers to safeguard is a practical impossibility if restrictive measures against the trade in fire-arms and ammunition are not established. » Thus run the words which preface the article (Art. 8) formulating the restrictions concerted by the Powers assembled at the Brussels Conference, in respect to the importation of arms. Similar action had already been taken by the Congo Free State for as early as 1888 a Decree of the Sovereign had forbidden the introduction of modern arms and ammunition throughout the territory of the State and the importation of even ordinary arms and powder in the Upper Congo.

The rules adopted by the State, in compliance with Article 8 and following articles of the Brussels Act, are chiefly to be found in the Decree concerning the importation, trade, transport and storage of fire-arms, dated March 10, 1892; in the regulations on the trade in fire-arms of June 16, 1892, and in the Decree of September 15, 1890, relative to the detection and punishment of infractions of the law regulating the traffic in arms.

The length of the State frontiers makes strict supervision especially difficult and events have shown that arms and powder are still introduced in large quantities into the ter-

ritory. As the occupation of the territory becomes more effective—and great progress is being made on this head—the task in question will be less difficult of accomplishment. The Government considers it an imperative duty to repress offences of this order with the utmost severity and, in concert with the other Powers to seek some means of effectually checking an evil so fatal to the native populations.

3. — MEASURES AGAINST THE IMPORTATION OF SPIRITS

The horrors of alcoholism are not unknown to European nations. The deleterious action of spirits on the native races needs not be demonstrated. « Civilization and alcohol are incompatible, » says Cecil Rhodes, who had himself witnessed the ravages of that fatal poison in the Rand(1).

Alcohol has been imported into Africa for a considerable time, and for the coast populations especially it has proved a scourge almost as terrible as the slave-trade. The extraordinary development of African colonization made the question of the introduction of strong liquor into Africa a burning one, the drink traffic was threatening vast districts hitherto free from it. To introduce alcohol among the natives, incapable as they were of resisting its subtle and exciting effects, was to nip in the bud their moral and material progress. Nay, it was, at the same time, to sap the work of equatorial colonization at its base by preventing the natives from becoming trustworthy workers and by creating for them wants which slay.

(1) See : *La Prohibition de l'alcool en Afrique*. BELGIQUE COLONIALE, 1896, pp. 3 and 37.

When the government was being established in the Congo, the Free State found that the Lower and the Upper-Congo were in very different circumstances with regard to the question of spirits.

In the Lower Congo the custom of supplying the natives with drink had taken deep root; every merchant sold it. In fact, the information we possess on this subject—commencing with that of Stanley—shows that the trader who refused to do so was obliged to give up all commercial transactions. In the Upper-Congo, however, the situation was altogether different. Here the drink-trade was then hardly known.

On the seventeenth of December 1887, the King-Sovereign issued a decree applicable to the whole of the territory beyond the river Inkisi, in virtue of which any trader who desired to supply the natives with distilled alcoholic liquor in any circumstances whatever must first obtain a license from the Governor-General. This license was subject to special conditions designed to prevent abuses, especially the sale of excessive quantities of drink, or supplying the natives with such drink as by reason of its bad quality would be injurious to health.

Three years later, and just after the Brussels Conference,—the general Act of which had set forth (in clauses 90 and following) measures restricting the spirit trade,—a fresh decree of the Sovereign, dated July 16, 1890, absolutely prohibited the importation and sale of distilled alcoholic liquor in that portion of the State territory situated beyond the Inkisi. Article 3 of the decree forbade the establishment of distilleries in the same portion of the territory.

Shortly afterwards, the Decree of April 9, 1892, imposed a duty of 15 francs per hectolitre at 50 centesimal degrees on spirits imported into the Lower-Congo regions which were not affected by the prohibitive rules.

The State, in its campaign against alcoholism, did not stop here. Two decrees, dated respectively March 4, 1896 and April 15, 1898, extended the zone of absolute prohibition by carrying it first to the river Kwilu, then to the M' Pozo, a river which flows into the Congo not far from Matadi. From this it results that throughout nearly the whole of the Congo Free State neither the importation nor the manufacture of alcohol is tolerated.

The extent of the zone of prohibition is 2,337 500 square kilometres. The extent of the zone of toleration is not more than 12,500 square kilometres.

With regard to alcoholic drinks that contain absinthe, the Decree of October 15, 1898 absolutely forbids their importation into any part of State territory, even for consumption by Europeans.

Written permits to obtain alcoholic liquor are granted under exceptional circumstances to whites, but these permits are severely regulated and strictly limited by an Order of the Governor, dated March 9, 1897, and a special system of supervision has been organized, with regard to caravans and boats.

In the zone of toleration, the Decree of June 12, 1900, adopted as a result of the Convention of June 8, 1899, fixes for a period of six years the import duties on spirits at the maximum, that is to say at 70 fr. per hectolitre at 50 centesimal degrees. Imports have come down from 1,236,625 litres in 1900, to 194,885 litres, or 6 times less. Such facts show

how mistaken are those writers who accuse the Free State of using gin as an instrument of conquest and domination.

The truth is that the Government has not hesitated, as Baron van Eetvelde, the Secretary of State, pointed out, « to make its fiscal policy subordinate to the necessity of protecting the natives against the introduction of spirits (1). »

4. — MEASURES AGAINST THE RAVAGES OF EPIDEMICS.

The ravages caused by small-pox amongst the natives are enormous and this scourge has been compared to the slave-trade in its effects. The Order of December 12, 1894 makes free vaccination compulsory for all coloured workers. An institution for the production of vaccine lymph established at Boma and six other stations for the same purpose supply the needs of all the posts.

This beneficial action has lessened the ravages of small-pox and with other salutary prophylactic measures which we indicate later on, has had a marked influence on the sanitary condition of the natives.

5. — MEASURES AGAINST BARBAROUS CUSTOMS.

The suppression of savage practices such as human sacrifices, cannibalism and trial by poison, has been energetically undertaken by the State; and from the fact that not only murder, but other monstrous crimes formerly consi-

(1) *Report to the King-Sovereign*. January 25, 1897 (BULLETIN OFFICIEL, 1897, p. 65).

dered permissible but now utterly proscribed, are alike punished with the utmost rigour of the law, this much has resulted : some notion of respect for human life is little by little penetrating into the minds of the natives.

The instructions given to the State officials in this connection are as follows.

« In order to secure the suppression of barbarous customs among the natives, such as cannibalism, trial by poison, and human sacrifices in general, district-commissioners and governors of posts must exercise a careful supervision over the natives in their district.

» They are expected to apply the regulations severely and to send before the Courts all natives who commit offences of this character. The Public Prosecutor shall institute the prosecution of the offenders and cannot commit them to the jurisdiction of the local chief, as Article 84 of the Decree of April 27, 1889 allows him to do in some cases. »

It must not, however, be forgotten that the complete abolition of savage customs can only be the work of time. This is the opinion of all those entitled to speak on the subject. Ideas and manners have to be completely regenerated, and this, amongst people whose abominable practices arouse in their own hearts none of the horror which those practices inspire in the civilized world. The strengthening of territorial occupation, the presence of a determined authority in the neighbourhood of stations, the sphere of moral influence which is developed under the guidance of the local authority, and rigorous measures must all contribute to the desired result.

To make the State responsible for every isolated instance of the continuance of savage customs or to expect the Government to perform impossibilities, is neither in conformity

with justice nor with what is asked of other colonizing States which have to deal with similar difficulties.

« Now is it reasonable to expect that the Belgians can root out the inbred customs of generations in a few years? Or can it be affirmed with any claim to common sense that the suppression of such debasing practices can be unattended by occasional repression of a severe kind? The Benin natives had been in close touch with Europeans for fifty-years at least, and had come into contact with them for a couple of centuries, yet until the other day human sacrifices were in full swing at Benin city to the knowledge of the British authorities not forty miles distant. The task which the Belgians have taken in hand is a gigantic one, and they are not getting fair play (1). »

Thus wrote the *Pall Mall Gazette*. So too Baron van Eetvelde speaking from his own experience :—

« Surely nobody thinks that any Government could get rid of barbarous customs, in a country where they have existed for ages, in a few days' time. Perhaps we ought to declare war against all the chiefs in whose villages a case of cannibalism is found out or a human sacrifice or mutilation of a dead body discovered. That is, perhaps, the manner of acting they want to preach to us, and then afterwards they would accuse us of setting the Congo ablaze!—My opinion is that the only way in which the State can obtain the gradual abolition of these savage customs is to first use persuasion with the natives, and afterwards take severe steps as its authority becomes stronger. It will take many years to get entirely free from the evil, but the results already obtained are not to be despised (2). »

These results are so well worth noting that the British Consul in the Congo has not hesitated to report on them in the following terms :—

« Credit is also due to the Congo Government in respect of

(1) *Pall Mall Gazette*, July 19, 1897.

(2) *Étoile belge*, May 21, 1897.

the diminution of cannibalism, although the improvement noticeable in this regard has resulted as much, perhaps, from the presence of resident Europeans as from direct repression. It will take a long time, however, to disinfect the country of this foulness throughout. The banks of the main river, and those of many of its affluents, may be regarded as no longer tainted thereby; but cannibalism will continue to be heard of on the Congo until the natives who are ashamed of it can be brought to see the advantage of assisting in its abolition (1). »

We have already noted this remarkable fact : in some districts cannibalism has entirely died out; for example in the land of the Bangalas, who were once the most cruel of all man-eaters. The same statement may be made concerning human sacrifices, ordeal by poison, and similar customs. Their fate will be that of the slave-trade; they will be more and more restricted, and, though for a while they will be secretly practised, in the end they will vanish.

In a previous chapter, we have already pointed out what prudent measures the authorities have taken to mitigate the hardships consequent upon the use of armed force. Violations of these rules at times may possibly take place. But such offences must not be judged without reference to the circumstances in which they are committed; above all we must not saddle the authorities with responsibilities which are not theirs. Any such behaviour might too easily become general and could only result in endless recriminations between one nation and another. In this connexion we find in the *Bulletin du Comité de l'Afrique française* some general remarks which it may be worth while to quote.

(1) PICKERSGILL, H. M.'s. Consul, *Diplomatic and Consular Reports*, N° 459, June, 1898, p. 8.

« In the vast and, in great measure barbarous, territory of the Congo Free State, reprehensible acts are, doubtless, sometimes committed. Nor is this surprising : The black soldiers of the State, suddenly snatched as they are from savagery, do not always act as civilised beings when the eye of the Belgian officer is not upon them. Some Europeans even, affected by the climate and isolation, may occasionally abuse their authority. But, in acting thus, they are going against their instructions and rendering themselves liable to punishment. Their conduct can in no wise affect the general spirit of Congolese administration, which is inspired by the noble philanthropy of the King of the Belgians. Like offences are committed from time to time in every other part of Africa, and if the Congo is specially singled out, it is perhaps because it seems less able than the other African powers to resist such attacks. (1) »

The following remark, made by Baron Wahis, Governor-General, is also very much to the point :

« The atrocities to which our officers and soldiers are submitted when defeated explain reprisals which the authorities are often powerless to prevent. Nor, when war is raging, is it in the Congo only that acts are committed which civilization condemns. (2) »

6. — MEASURES TO PREVENT TRIBAL WARS.

The 215 stations at present scattered throughout the State are everywhere making their influence felt by maintaining order, settling disputes and pacifying the natives.

At the same time the institution of native chieftaincies is bringing together under responsible authority such groups of natives as are united by ties of race.

By this means order is substituted for anarchy and for

(1) *Bulletin du Comité de l'Afrique française*, June 1897, p. 191.

(2) Letter to *The Times*, September 23, 1897.

the petty warfare of rival chiefs—fruitful source of bloodshed, cruelty and horrors of all sorts.

Of course cases of revolt may occur, in which the State is obliged to show its power, and to show it boldly. The duty of energetic action is all the more binding, as the fate of all European ventures is bound up with that of the authorities. But such conditions are common to all colonies. Moreover the Government has given strict injunctions to its agents only to have recourse to arms in cases of absolute necessity, and always to act with moderation.

Should any agent venture to disregard these injunctions, he would at once be prosecuted and punished with disciplinary or judicial penalties.

The above facts speak for themselves; they clearly indicate by what means and to what extent the State has fulfilled its duty in the matter of preserving the native population.

7. — SERVILE «STATUS» NOT LEGALLY RECOGNIZED.

If wholesale butcheries and wasting slave raids have happily now ceased, if the native is saved from his worst foes and from the worst influences which beset him, he is still pressed down by the dead weight of many centuries of barbarism. The defeat of the slave-trader has, indeed, cut the tap-root of the evil; but the war against slavery and the lawless tyranny of savage chiefs, must be followed by a struggle no less determined against ignorance in all its manifold forms. To raise the negro to our own level—this is the work before us—a work which it is the ambition of the Congo Free State to accomplish by degrees. We say advisedly—by degrees, because the State is well aware

that, in cases of this kind, precipitancy means failure and also it is firmly convinced that with patience and perseverance it will presently accomplish something.

The course which the Government is pursuing and the motives which have inspired it have often been strangely misrepresented. This is the reason why we have deemed it our duty to emphasize the points. Considered as a whole and rightly understood, the Government plan is admirably adapted to compass the end in view; and we will venture to add, no better scheme has ever been devised for the amelioration of savage races.

We have already seen how the State, powerless to immediately abolish slavery, refuses to acknowledge its legal status. The foundations of this horrible institution are thus undermined, and sooner or later it must perish.

The wording of Article 428 of the Civil Code is as follows :—

« No one may hire himself out save for a limited time and for a definite undertaking. »

And Article 11 of the penal Code is drawn up in the following words :—

« Whosoever by force, guile or threats shall abduct or cause to be abducted, arbitrarily arrest or cause to be arrested, detain or cause to be detained, any person whomsoever, will be sentenced to a term of from one to five years penal servitude.

» If the person thus abducted, arrested or detained shall have been subjected to bodily torture, the culprit will be condemned to penal servitude for a term of from five to twenty years. If such torture shall have caused death the perpetrator of the offence will be condemned to death or to penal servitude for life. »

Furthermore, all government servants are strictly forbid-

den to retain either women or children in their household service under such conditions as may lead the natives to suppose that anything like slavery is being encouraged. We have already treated the question of taxes paid in kind or in labor, which is a question quite apart from that of slavery; and at the same time we clearly defied the character of the engagement taken by the Powers concerning this matter (1).

8. — HOW THE WORTHIER AMONG THE BLACKS MAY ACQUIRE FULL ENJOYMENT OF CIVIL RIGHTS.

Not only does the State refuse to recognize as legal the status of slavery but it has passed a law which allows the granting of a regular European status to the elite of the black population.

We have seen how the State, by a special provision of its Civil Code in article 6, opens the way to the full enjoyment of civil rights for those natives who prove themselves worthy of it by their initiation in the life of civilized peoples, and especially by their aptitude for co-operation in certain public services (2).

9. — IMPROVED CONDITIONS OF FAMILY LIFE AMONG THE BLACKS.

Without making any attempt to bring about an immediate and radical reformation in the family life of its native subjects, the State is nevertheless doing what it can in a quiet way to further the principle of monogamy by encou-

(1) See pp. 88 and 94.

(2) See page 188.

raging to its utmost this practise among its own native servants. The privileges granted to the lawful wife of the negro soldier are calculated to achieve this end. In this connection it will be interesting to note the following passage in the report sent to the King on July 13, 1900 :—

« We have been able to root out polygamy among the levies everywhere but in the Eastern Province where Arab customs have taken deep root, and the introduction of new customs meets with strong opposition. But, even there, the Government is determined to forbid polygamy among the black « employés » of the State, and to call the civil and military commanders to account for any reprehensible acts of this nature that they may have connived at. »

10. — PENAL MEASURES ENACTED AGAINST ATTACKS UPON THE PERSON OR PROPERTY OF NATIVES.

In addition to the measures which the Government has taken, and which we have outlined in a previous chapter, for the general protection and preservation of the negro race, penal legislation has been enacted to repress attempts against the persons or property of individual natives, and with this result : The efforts of the Government have been most successful, the native now enjoys a far greater measure of security than ever he knew before. His condition, then, in this respect, is vastly ameliorated, and what is more, it is improving day by day. All European residents in the Congo acknowledge the marvellous transformation which the Government has effected in this regard.

« The State must be congratulated, » said Mr. Pickersgill, Her Britannic Majesty's Consul in the Congo, « upon the security it has created for all who live under the shelter of its flag, and abide by its laws and regulations. The traveller on the Congo quickly comes to realise that there is a power in the land which

the people have learned to fear, and upon which they are beginning to depend for protection (1). »

« I am, » says Mr. Grenfell, « one of the rare Europeans, actually residing in Congo, who was acquainted with this country before the State was established and who can compare that situation with the present one. For this reason, I wish to state that I most sincerely appreciate the advantages attending the establishment of a civilised Government and I proclaim that I am more and more grateful for the order and liberty actually existing (2). »

II. — MEASURES FOR SAFEGUARDING THE VESTED RIGHTS OF NATIVES.

We have already outlined, in a previous chapter, the various measures taken by the State to safeguard land-rights vested in natives, and to procure for the latter, in a useful sphere, the means of economic activity corresponding to their needs and development.

According to some, who strangely misapprehend their real purport and scope, these vested rights extend to elements and forms of development of which their possessors formerly knew nothing, and that, to the detriment of those who first discovered and utilised them :—a theory hard to conciliate with the ordinary rules of justice. Besides, as a matter of fact in so far as they are remuneratively associated in these new methods of exploitation, native owners of land do actually share in the profits. Indeed the means is thus afforded them of considerably bettering their condition.

The sum appropriated in the State budget to the payment

(1) *Report to the Foreign Office*, June, 1898, p. 8.

(2) *Le Congo belge*, August 15, 1896, p. 100.

of wages for the development of its domain is significant in this respect.

12. — ADMISSION OF THE BLACKS TO THE ADVANTAGES
OF THE JURISDICTION ORGANIZED BY THE STATE

Although, in the ordinary course, as we have already remarked, the native is held to be subject to the jurisdiction of his local Chief in all matters of private concern, nevertheless if either party to a dispute apply to the State Court, the latter has discretionary power to try the case, and it not unfrequently happens that both parties concur in thus showing their confidence in the justice of the official Courts.

13. — SPECIAL LAWS REGULATING CONTRACTS OF SERVICE
PASSED BETWEEN BLACKS AND NON-NATIVES.

The Decree of November 8, 1888, is noteworthy. It secures special protection to the blacks in the matter of contracts of service by limiting the duration of engagements, regulating the form of contracts, fixing guarantees for wages and salaries, displacing the burden of proof to the advantage of the employé and by authorizing the Public Prosecutor to act in the name and on behalf of oppressed blacks.

The Decree in question runs thus :—

« Whereas it is necessary to grant special protection to the blacks;

» In accordance with Article 429 of the Civil Code, which provides that special rules shall be applied to contracts of service between blacks and non-natives;

» By the advice of Our Council of Administrators General,

» We have decreed and do decree :

» ART. 1. — The Director of Justice, in his own person or

acting through the officers appointed for that purpose by the Governor-General, shall take all blacks, both native and immigrant, and all labourers and hired men under his special protection.

» He shall take all legal steps to ensure respect for their rights and to uphold their interests.

» The Public Prosecutor may, at the request of the Director of Justice, act in a suit in the name and on behalf of the negroes who have been wronged (Art. 3 of the Order dated May 14, 1886).

» ART. 2. — The Director of Justice and the officers appointed by the Governor-General shall specially supervise the fulfilment of contracts signed with the blacks; and shall, if need be, see to their return home and provide for their journey.

» ART. 3. — No contract of service between natives and non-natives may be signed for a period exceeding seven years. Any contract which stipulates a longer term of service shall only be held to be legally binding during the aforesaid period.

» At the expiration of the term of service, contracts may be renewed, but if the new term of service added to the former term constitutes a continuous engagement of more than seven years, the consent of the authorities named in Art. 1, section 1, must first be obtained.

» ART. 4. — All masters or employers are bound to give proof, whenever called upon to do so by the aforesaid authorities, that the blacks in their service are working of their own free will, or in accordance with conditions that they have freely accepted.

» ART. 5. — Any master or employer who shall infringe par. 2 of Article 3, or who shall fail to furnish the proofs required in Article 4, shall be liable to a fine of from 100 to 1,000 fr.

» ART. 6. — The amount of the wages and salaries agreed on must be set down in the agreement. They are payable in cash, or in goods of a class to be fixed in the contract.

» Payment in kind may supersede, in whole or in part, payment in cash, provided such methods of payment are permitted by the terms of the contract, or if the contracting parties be agreed as to the nature, value, quality and quantity of goods

allowed in lieu of cash payment. In case of dissent, the master or employer shall be called upon to prove the agreement.

» ART. 7. — The repatriation or return of employés to the localities wherein they were recruited shall be at the cost of the master or employer save express agreement to the contrary.

» ART. 8. — Masters and employers will be deemed to be in fault save proof to the contrary, and hence will be held responsible, if they fail to effect the repatriation of one or more of their hired servants under the conditions of time and otherwise stipulated in the contract, or failing such stipulation, under such conditions as are customary.

» In case of gross neglect or unfair dealings they will be liable to a fine not exceeding 1,000 frs.

» ART. 9. — All details not mentioned in the contracts shall be settled by local custom, wherever such custom shall not be contrary to public order, to the principles of freedom as defined by the General Act of the Berlin Conference or to the provisions of this present decree.

» ART. 10. — If the term of service be not fixed by contract, the workman shall be bound to give notice to the master of his intention to bring the engagement to an end three months beforehand or if a shorter period is in accordance with local custom, such period shall suffice.

» The master shall observe the same interval when giving notice to his workman.

» ART. 11. — The master or servant who wilfully or maliciously refuses to carry out the lawful clauses of the contract of service freely entered into, or fails to observe customs legally binding by virtue of this present decree, shall be fined from 25 to 500 frs. and shall undergo penal servitude for a period of from 8 days to 6 months, or either of the aforesaid penalties, without prejudice to any right to compensation; except when the other contracting party has also failed to fulfil his engagement.

» Servants may be brought back to their masters or employers by the established authorities. But masters and employers are forbidden under the penalties laid down in the Penal Code, to imprison or forcibly detain workmen who are unwilling to

remain in their service. Refusal to carry out the contract may be punished only by the application of the penalties provided by law.

» ART. 12. — Any black servant, who may have suffered ill-treatment at the hands of his employer, may make application to the Court for the cancellation of his contract, and, upon such application, the Court may authorise him to quit the service of his employer until the case shall have been decided, and that without prejudice to any criminal action against the employer which might eventually lie.

» ART. 13. — Every contract of hire shall be set down in writing by the master or employer and presented for certification to the proper authorities, within one month of the date of signing; or, in the case of workmen hired abroad, within one month of their arrival in the territory of the State.

» The certification shall not be affixed, unless it be first made clear that the workman has fully understood his engagement, and same shall not affect the legal force of the clauses of the contract.

» Contracts signed by blacks born in the Congo and hired in the districts selected by the Governor-General, whom it is proposed to convey to such distance from their homes as he shall appoint, shall be certified by a document drawn up by order of the district authority appointed by the Governor-General.

» Masters and employers can claim no benefit from contracts not drawn up in accordance with the foregoing clauses; but the absence of any written certificate or *visa* cannot be used in argument against the blacks, whose hiring shall be, at their option, subject either to the contracts or to local customs; but always within the limits laid down in article 9.

» ART. 14. — Masters and employers are bound, at the request of the authorities, named in Art. 1, par. I, during the whole continuance of a contract, to make known the residence of their workmen. Deaths or desertions shall be notified to the same authorities by masters and employers.

» ART. 15. — Subject to the terms of this present Decree, the Governor-General may lay down rules to fix the terms on which contracts may be signed, and may designate the officials whose

duty it shall be to superintend them. He shall determine the fee for the certification of contracts of hire.

» He may prescribe districts where recruiting shall be forbidden.

» ART. 16. — Our Administrator-General for the Department of Foreign Affairs, having also the Department of Justice under his control, is responsible for the carrying out of this present Decree, which shall enter into operation from and after this day, November 8, 1888. »

14. — THE SPECIAL PROTECTION GRANTED TO BLACKS FOR OBTAINING REDRESS ACCORDING TO LAW.

Following its invariable principle of protecting the weak, the Congolese law insists on aiding them whenever they ask for the legal redress of a wrong they have suffered. With this object in view, article 95 of Book I of the Penal Code is thus drawn up :—

« The Court shall fix the amount of damages. When the offended party is a native, the Court may *ex officio* determine the amount of compensation or damages due according to local customs. »

We have already pointed out that in actions between natives, when one of the parties in dispute applies to the State-appointed Court, the latter may grant to that party the benefit of its jurisdiction.

15. — THE COMMISSION FOR THE PROTECTION OF NATIVES.

In order to secure more efficient protection for natives, the Government has appointed a permanent Commission composed of representatives of various religious and philanthropic associations, to watch over their interests. The

Decree of appointment is dated September 18, 1896, and reads as follows :—

« A permanent Commission whose duty it shall be to ensure the protection of natives throughout the whole of the territory of the Free State is hereby instituted.

» The members of the aforesaid Commission shall be named by the King-Sovereign, from among the representatives of religious and philanthropic Associations, and they shall exercise their functions for a term of two years.

Three representatives of Catholic missions and three representatives of Protestant missions shall be appointed members of the aforesaid Commission (1).

16. — THE SETTLEMENTS FOR NATIVE CHILDREN.

Yet another measure testifies to the deep interest taken by the State in the natives, particularly those of their number which run the greatest risk of a miserable fate, a class which, by protection and help, may grow into a most hopeful element for the future. The Decree of July 12, 1890, concerning settlements for native children runs as follows :—

« Whereas measures of protection are necessary in favour of children who have suffered from the slave-trade, and whereas it is in general the duty of the State to provide for the guardianship of abandoned children, or of those whose parents are not fulfilling their natural obligations.

(1) *President* : Mgr Van Ronslé, Bishop of Thymbrum, Vicar Apostolic of the Belgian Congo; *Members*: the Rev. F. J. Van Henxthoven, S. J., — the Rev. F. Cambier of the Scheut Congregation, — Mr. William Holman Bentley, of the Baptist Missionary Corporation, — Doctor A. Sims of the American Baptist Missionary Union, with Mr. George Grenfell, of the Baptist Missionary Society, *Secretary*.

» Therefore, by the advice of Our Secretary of State for Foreign Affairs.

» We have decreed and do decree :—

» ART. 1. — The State shall have the guardianship of all children set free by the arrest or dispersal of slave gangs ; of all fugitive slaves who claim its protection, of all children lost, deserted or orphaned and of those whose parents do not fulfil their duty in maintaining and educating them.

» Means of subsistence shall be furnished to them, and care shall be taken to provide them with a practical education in order to enable them to earn their living.

» ART. 2. — Agricultural and technical settlements shall be established to receive, firstly, the children qualified according to article 1 and secondly, as far as may be, the children who apply for admittance.

» ART. 3. — From the date of their admission, the children shall be exclusively under the guardianship of the State; they shall remain in that position and they shall be bound to do the work set them by the Governor-General until the completion of their 25th year, in return for maintenance, board, lodging and medical attendance, which shall be given to them.

» ART. 4. — Our Governor-General shall make bye-laws to determine the conditions of admittance of the children, the choice of managers, the programme of manual and intellectual training, the supervision, the punishments, and the nature of the public services in which the children shall be employed. »

In accordance with the Decree on settlements for native children, the Governor-General issued, on April 23, 1898, Regulations dealing with the matter.

17. — THE GUARDIANSHIP EXERCISED BY PHILANTHROPIC AND RELIGIOUS SOCIETIES.

The following provision is laid down in the Decree of March 4, 1892 :

« Whereas it is expedient to complete the Decree of July 12,

1890, concerning the protection of abandoned children and of victims of the slave-trade ;

» By the advice of Our Secretary of State for the Interior.

» We have decreed and do decree :

» ART. 1. — The legal representatives of philanthropic and of religious Societies, on submitting an application to the Governor-General, can obtain authorisation to receive into the agricultural and technical settlements under their management such native children as are wards of the State. The application shall contain the programme of the technical instruction to be given to the children.

» ART. 2. — The certificate of authorisation issued by the Governor-General shall state the conditions under which such authorisation is granted. The settlements authorized shall be placed under the supervision of the Governor-General or his Deputy.

» Our Secretary of State for Home Affairs is entrusted with the execution of this Decree which takes effect on the day of the date hereof. »

18. — LOCAL SANITARY BOARDS.

In the year 1899, a most important step was taken for the sanitary condition of the Congo. An Order dated April 24, which a few months later (September 7) was confirmed by a Decree, provided for the creation of local Sanitary Boards. The articles of the Order which concern the matter read as follows :—

« ART. 1. — In the chief town of every district and zone a Sanitary Board shall be formed.

» ART. 5. — The mission of these Boards shall be to supervise all that refers to public health, to study questions of hygiene and to point out to the competent authorities the steps that should be taken to improve the sanitary condition of their neighbourhood and to check epidemics.

» ART. 8. — As often as possible, at least once in every three

months, the Board shall inspect all the houses and outbuildings in the Chief town of the district or zone, as well those of natives as those which are inhabited by Europeans. The visits shall take place without warning; and after each visit a report must be sent in to the District-commissioner who shall forward it to the Governor-General with his opinion thereon.

» ART. 9. — On the outbreak of an epidemic, or of any disease which may become epidemic..., such members of the Board as belong to the medical profession shall betake themselves to the place infected, in order to personally ascertain the nature and character of the disease and to advise with the administrative authorities as to what measures should be taken to check it.

Provision for carrying out this Decree was made by an Order of the Governor-General dated April 3, 1892.

There are at present in the Congo 27 members of the medical profession and 20 Sanitary Boards. Moreover a Bacteriological Institute has been established at Boma.

The report to the King-Sovereign, dated July 15, 1900, after pointing out the creation of a hospital for natives at Boma, and the importance of the Decree of September 7, 1899, adds the following remarks :—

« As regards the sanitary conditions of State employés, we would call attention to the improvements which have been effected in the dwelling houses and other buildings of the various stations. Light building materials have been replaced by stronger materials. Brickfields and workshops have been opened. The dwellings occupied by the servants of the State, both native and European, are now sufficiently comfortable.

» Moreover, the natives of the surrounding country inspired by our example have completely transformed the general appearance of their villages. The squalid huts which the first explorers knew have now disappeared and better built and more sanitary dwellings have been erected in their place. »

19. — GENERAL INFLUENCES :
GOVERNMENTAL, ECONOMIC AND MORAL.

From the above summary it will be seen that the State takes the liveliest interest in all that touches the preservation of its native subjects and the improvement of their moral and material conditions.

Indeed, it has ever been, and is, the constant endeavour of the Congo Government to render as efficient as possible the various institutions and agencies, whether of a governmental, economic or moral order, which under its aegis co-operate in the complex work of African regeneration.

The State has taken a firm hold everywhere throughout its vast domain; and beneath the mantle of its protection have been fostered and developed the important administrative, judicial and military institutions, signalised by the Act of Brussels as best calculated to ensure to the natives permanently the blessings of civilization.

The State, on the one hand, has promoted and brought to a successful issue, as we have seen, sometimes with the co-operation of others, often alone, several vast undertakings of public interest destined to develop the economic equipment of the country and to further industry, trade and every form of material civilization.

On the other, it has protected and fostered all kinds of charitable and religious institutions, especially christian missions, and that irrespective of creed. Facts and innumerable testimonials show the success of its work in this direction.

Firmly convinced of the necessity of associating the natives themselves in the work of their civilization by the

might of personal effort and by the virtue of labour, the State has deemed it a duty to compel their co-operation and in order to make them the more willingly yield it, to offer them liberal payment.

Well aware of the salutary influence of hard work alike on inferior and superior races, that it is the very lever of all social progress, the Government has not hesitated to act in this matter with firmness, but at the same time with humanity and moderation, always taking the greatest care to guard against abuses.

Thus has the Congo Free State applied the devise it adopted on the morrow of its foundation : « *Travail et Progrès* » — a devise, we will add, to which in all things, it has always shown itself faithful.

20. — A PAGE OF COMPARATIVE STATISTICS.

We think it will be convenient to our readers to conclude this chapter with a short comparative table of all the statistics of the Congo Free State scattered about in this volume —the latest, that is, which are available—and those of fifteen years ago (1).

(1) Compare *The Truth about the civilisation in Congoland* « *La Vérité sur la civilisation au Congo* » by a Belgian 1903, ad fin.

| | 1885-1886 | 1901-1902 |
|--|---|------------|
| I. — Government in the Congo. | | |
| State officials. | 91 | 1,272 |
| Posts and stations. | 13 | 213 |
| Recognised Native Chieftaincies | — | 238 |
| II. — Budgets. | | |
| Ordinary receipts. | 1,323,000 | 28,769,000 |
| " expenses | 1,323,000 | 28,349,000 |
| Customs. | 730,000 (1891) | 6,033,000 |
| III. — Public force. | | |
| Officers | 23 | 223 |
| Non-commissioned officers | — | 308 |
| Men. | 1,187 | 16,773 |
| IV. — Organisation of Justice. | | |
| Courts of Justice and Courts-martial | 1 | 44 |
| V. — Civil services. | | |
| Registration offices for births, etc. | 4 | 37 |
| Notarial offices | 1 | 26 |
| Land titles registration office | 0 | 0 |
| VI. — Economic administration. | | |
| Establishments for cultivating and breeding purposes | — | 70 |
| " Chefs des cultures : | — | 33 |
| Agents of the forest department (replanting of india-rubber). | | 21 |
| Botanical garden | — | |
| Experimental garden. | — | created |
| Model farm. | — | in 1900 |
| Colonial garden. | — | |
| PLANTATIONS | Coffee trees. | 2,000,000 |
| | Cocoa trees. | 300,000 |
| | India-rubber plants replanted | 5,230,000 |
| | Gutta-percha plants | 4,000 |
| VII. — Navigation. | | |
| Navigable rivers explored and rendered navi- gable (kilom.). | 3,000 | 13,000 |
| Number of river-steamers. | 3 | 102 |
| PORT { Incoming vessels (tons) | 166,028 | 477,814 |
| TRAFFIC { Outgoing vessels (tons). | 163,716 | 472,393 |

| | | 1885-1886 | 1901-1902 |
|---|--|---------------------|-------------|
| VIII. — Railways. | | | |
| In operation (kilometres) | | — | 480 |
| Under construction | | — | 1,600 |
| Projects under consideration | | — | 150 |
| IX. — Posts and telegraphs. | | | |
| Telegraphic and telephonic lines (kilom.) . . . | | — | 1,332 |
| POSTAL TRAFFIC | Letters | 20,956 | 271,114 |
| | Printed matter | 12,184 | 97,893 |
| X. — Special trade. | | | |
| Exports | | 1,980,441 (1887) | 50,488,394 |
| Imports | | 9,173,103 (1893) | 23,102,064 |
| XI. — Trading companies. | | | |
| Belgian | | — | 48 |
| Other | | 6 | 14 |
| Capital | | 87,500 | 136,000,000 |
| XII. — Missions. | | | |
| CATHOLICS | Congregations | 2 | 13 |
| | Missionaries | 6 | 160 |
| | Men | — | 84 |
| | Women | — | — |
| | Establishments exclusive of « fermes-chapelles » | 3 | 44 |
| | Schools | — | 25 |
| | Christians | — | 18,973 |
| | Catechumens | — | 24,731 |
| | Children | — | 5,515 |
| | Congregations | 3 | 8 |
| PROTESTANTS | Missionaries | — | 221 |
| | Establishments (exclusive of secondary posts) | 14 | 40 |
| | Communicants | — | 6,321 |
| | Catechumens | — | 1,470 |
| | Children (day-school) | — | 10,162 |
| | » (Sunday-school) | — | 3,641 |

PART THE FOURTH.

THE SOVEREIGN.

The Sovereign

1. — THE ADVANCE OF MODERN COLONIZATION.

An impulsive movement has recently driven the most progressive and best-endowed races towards countries hitherto closed to civilization. Never has the sea,—that high road of enterprising nations, as it was termed some years ago by the King of the Belgians, when inaugurating the *Grand Concours des Sciences et de l'Industrie* in Brussels—better demonstrated that its uniting power is much greater than its power of separation, that it is a source of inexhaustible wealth and a road constantly open for the manifestations of the community of human interests. Never before, subdued as it has been by our powerful navigating craft, did it so well reveal itself,—with its open surface of undulating crystal, with its waves like so many guiding rails resting and moving in every direction according to need—as a medium of transit susceptible of comparison with the most improved railways and as an implement most perfectly adapted by nature for the welding together of the human race.

The future will not cease to do justice to those contemporary sovereigns and statesmen of modern times who

march at the head of the world-wide movement of expansion and, clearly desiring the tread of the times, determined to associate their respective countries in the transformation of the conditions of life on this globe and also to obtain for them an ampler, but at the same time a better merited, share of its material surface.

These intrepid forerunners did not obey a vain desire for conquest or proselytising. Enticed, without doubt, by the marvellous progress of our times, more particularly as regards the means of communication and the process of generating wealth; stimulated by the desire to escape the danger of relative diminution, by finding new markets in which to recruit their diminishing vitality; influenced in a certain measure by the contagiousness of example, their action was, in reality, mainly inspired by necessities of an economic kind.

This was the primary cause of the movement of which they were the leaders. This is the explanation of its generalisation and at the same time the fundamental reason why the progress of colonization is not and cannot be considered as the exclusive appanage of a few Powers, or of a group of States.

The necessity of searching the globe, without injuring the rights of others, for an outlet for commerce, and new materials of wealth, may be not less imperious, may even become more indispensable for certain small countries than for some greater ones. The effort displayed to satisfy these needs in all the markets of the world, on the principle of fair competition, is quite legitimate—it is the common right of all States. Then how much more legitimate still would appear the tendency to give scope to these

needs by the search for fresh outlets in new countries.

For the nations confined within narrow limits in Europe, abounding with energy, capital and produce, exposed to all the vicissitudes which the political economy of other States may engender, colonial expansion may be not only justified but commanded by the double law of preservation and progress, which is also the law of humanity.

And this is true, be it observed, of such neutral States as are permanently neutral as well as of those which retain the power of concerning themselves with the wars of other States. The fact that the sphere of such sanguinary conflicts and violent conquests is closed to them, is a special reason why the sphere of pacific evolution to its fullest extent should remain open to them. Now, colonization, in so far as its operations are limited to territories considered vacant from an international point of view, remains essentially a form of the pacific activity of nations.

In order to deny to permanently neutral States this legitimate mode of exercising their independence, it is not surely sufficient to allege that such action on their part may possibly give rise to international differences. Unhappily a great number of international rights and even of international incidents in themselves quite harmless are apt to give rise to international difficulties. If the prospect of possible disputes should always be a decisive reason for renouncing the exercise of just rights, the sovereign States would be placed in the position of powers unable to look after their own interests even in the most perfectly pacific manner.

The history of colonization is far from proving, moreover, that the States with limited territory, having access to the

sea, are more destitute than others of colonizing capacity. It seems to show, on the contrary, that the great States, possessed of much land, are inclined for a longer time to devote themselves to an internal and continental colonization, whilst the States with limited territory, having a sea-coast, are better able to find for themselves new outlets in new lands, and to provide themselves by this means with the increase of resources necessary for the growth of public prosperity. Venice formerly, the Netherlands formerly as well as at present—to quote two instances only,—are evident and noteworthy illustrations of this lesson of History.

It is a mistake to suppose that this colonizing rôle of the small States, if it be well understood and applied to a clearly defined task, cannot usefully serve the general cause of humanity and progress, and harmonize with the interests of other nations.

In the immense field of colonization applied to the entire globe, there is room for humble workers. The colonial possessions of a number of great Powers are so vast that it would be almost absurd to say that settlements founded by minor instruments of colonization are prejudicial to the expansion of the former. Let us add that these minor instruments, owing to the very fact that their sphere of action is smaller and less exposed to the consequences of competition or abandonment resulting from foreign entanglements, may, by the concentration of their efforts on a single point, produce the surprising results which are sometimes noticed. Moreover, it may not be a matter of indifference to the general economic equilibrium that in colonial matters, as elsewhere, there should be a counter weight, to prevent collisions which might otherwise arise

from a too great displacing of the centre of gravity of interests, and thus to guarantee to individual rights a protection accorded to all.

One must not forget, however, that independently of questions of law which seem to keep their importance even in international matters, the permanent arrangement of interests on the basis of actual possessions is a safer means for the settlement of international affairs than the unbridling of covetousness, in which irresponsible publicists imagine that they have found a solution of all difficulties.

. . .

England incontestably holds the first rank among nations from the point of view of general progress (commerce, manufactures, navigation). As a colonizing power she holds an unrivalled position.

The British Empire consists of :

| | Sq. kilom. | Population. |
|------------------------------|-------------------|--------------------|
| United Kingdom | 314,339 | 41,962,510 (1902) |
| Empire of India | 4,860,000 | 293,215,000 (1901) |
| Colonies and Protectorates . | 23,870,000 | 60,783,000 |
| | <u>29,044,339</u> | <u>397,962,510</u> |

The sphere of the British Empire is world-wide in the full meaning of the term. The elements of which this empire is composed fit into one another remarkably well. England has shown herself equally superior in colonial expansion by means of the formation of new societies, shaped on her own model, and sprung from her own blood, and by means of direct government of communities of a lower civilization in the widely differing countries subjected to her domination. He who has not studied the British Empire, cannot

form a complete idea of the varied forms and many possibilities of human government. If English policy, like all human policy, may have its imperfections and faults, it remains none the less the most marvellous combination of human genius applied to the government of man, and the historical development of British influence in new worlds appears none the less to the impartial observer a great benefit to humanity.

Colonization is the most powerful expression of the national tendency of England ; it is identified with the economical life of the country. We may derive inspirations from English colonization, but it is impossible to copy it, for it is inimitable. We can understand the enthusiasm of Englishmen for their « Greater Britain. » The colonial work of England assures to the nation which has accomplished it a perpetuity as glorious as it is fruitful.

France, after a period of expansion, during which it appeared doubtful which would, in the future, be the greatest colonial power, lost her finest colonies, and the remembrance of her traditions and methods of colonization has been almost obliterated. A revival of colonizing activity is, however, taking place in that country at present, and France, not to mention the gems which she possesses in the Mediterranean, is now mistress, in Africa and Asia especially, of magnificent possessions beyond the sea, to which she applies ever firmer and more fruitful methods of development. It is well known that the population of France does not quite amount to 39 millions. The population of her colonies amounts to 46,600,000.

Having entered the arena of outer expansion at a later period, modern Germany, possessed of a special business

genius and an almost unequalled technical organization, under the powerful impetus given her by the Emperor, has thrown her striking faculties and the energetic activity of her people into this double external task : commercial and colonial expansion. She has made enormous strides in the first direction, the most difficult in some respects, as she had to struggle with many rivals in markets open to all comers. If the marvellous progress that she has made in this respect seems to eclipse her forward march in colonization, she has at least acquired a series of important colonial settlements, whose population amounts to over 12 million inhabitants, and which she turns to account in a remarkably progressive manner, at the same time unceasingly directing her attention with astounding success, to commercial competition proper.

Holland has preserved splendid possessions in the East Indies, notably Java, a model of tropical colonization. She holds her colonial experience as one of the most highly prized elements of her national inheritance, and she applies the practical, enduring and mercantile qualities of the Dutchman to the improvement of her beautiful possessions beyond the seas. She is the most perfect model and preeminently the leader of the small colonizing countries. Exclusive of Java, which alone has a population of 28 millions, the Dutch colonies count about 10 million inhabitants.

Among European nations of the Latin race, several have been less fortunate in our days than France. Spain has been the most sorely tried. The colonizing activity of Portugal, on the contrary, has in some respects been awakened; Portugal has possessions extending over two million one hundred and forty-six thousand square kilometres,

with a population of 5,850,000 inhabitants. And if Italy, who, in days of old, gave so many proofs of her ability to brand other peoples with the stamp of her civilization, has experienced some reverses at the beginning of her late-born and hurried colonial policy, she has at least been able to guard herself from the extreme measures which are sometimes the outcome of irritation and discouragement, and has finally adopted a line of action which leaves her hands free for the future. Italian emigrants people Tripoli, South America, and will find a place in the Congo. Italians are industrious, sober, enduring, and make first-class colonizers.

Not so closely shut up within their own dominions as the other Powers, the Russian Empire, with its area of $22\frac{1}{2}$ million square kilometres, and its 129 million inhabitants, and the Republic of the United States of America, with its $9\frac{1}{2}$ million square kilometres, and its $77\frac{1}{2}$ million inhabitants, have directed a great part of their activity to internal and continental colonization within their own immense territories. At the same time their power of expansion abroad is very much in evidence nowadays. It acts in a slow and continuous way as regards Russia, who is at the same time developing her economic resources; in a bolder and more enterprising way in the United States, which country has marvellous industrial and commercial forces at its disposal.

In face of the situation that we have just roughly sketched, such a country as Belgium, having access to the Ocean, and possessing ports, one of which is among the most magnificent in the world, possessing immense economic resources and powerful reserves of energy, would be

throwing away obvious natural advantages unless it made use of the sea as a highroad, and adopted a policy of economic expansion befitting its needs and capacities. If, in the career recently opened to all manufacturing and commercial nations, such a country must inevitably meet more powerful rivals, on what grounds would it meet opponents, when, pursuing a legitimate and necessary object, it takes a modest but courageous part, on a more spacious area, in the common struggle of civilization, in that strife which is the common destiny of our time?

2. — LEOPOLD I AND COLONIZATION.

Since the revival of its independence, Belgium has had the providential good fortune of being governed by two Kings who have spent untiring efforts in assuring the country an honorable place among the nations, in developing all the internal branches of activity which tend to increase public wealth, and in procuring new fields of activity for national energy.

Concerning colonization in particular, it must be acknowledged that the obstacles to the acquisition of foreign possessions by Belgium, have not come from abroad. Indeed on various occasions we have received encouragement from other countries. But, considering the importance of the question for the future prosperity of the nation, the apathy which Belgium herself displayed was to say the least extraordinary. The history of the attempts made by our first King to overcome this indifference is little known. Most of these attempts were of a personal kind, and the expenses had to be borne entirely by our princes. We have described in our study on « The Neutrality of Bel-

gium » several undertakings, which the State supported for a short time, and in a half-hearted way. We will here recall some facts which belong to history :

In 1841 there was formed in Belgium, with the consent of the Government, a limited company for the purpose of founding colonial settlements in Central America. A settlement was established at Santo-Toma. The enterprise was neither sufficiently supported nor suitably managed.

After a number of less official attempts, such as the one made in Brazil in the province of St. Catherine in 1844, a new attempt was made in 1847 at Kansas (Missouri) and another at Ste Marie (Pennsylvania). This latter led to a convention signed by the Minister of the Interior.

In 1848, in consequence of the law voted on the 18th of April, Belgium acquired possession of a region belonging to native chiefs on the banks of Rio-Nunez (Coast of Guinea). She was thus thirty-five years in advance of the French, English and Germans in taking possession of territory on the same coast. This acquisition gave rise to two agreements. The first, approved by the Government in 1848, was superseded ten years later by a contract regulating the conditions under which the Belgians who established themselves in the country could claim the advantages stipulated by the former arrangement.

By the force of events, the mission of the first head of the Belgian dynasty was to constitute and consolidate the country. Circumstances obliged him above all to be the founder of the nation. It was reserved for the second of our princes to guide the country into the path of national expansion.

3. — THE IDEAS OF THE DUKE OF BRABANT.

No one can reproach the Belgian Sovereign who to day wears two crowns, one European and constitutional, the other African and humanitarian, with not having perfectly under-

stood the spirit of his age, or with not having endeavoured to develop the prosperity of his country in harmony with that spirit. And no one will deny him the credit, at a time when not only Belgium, but many other States were more or less stationary, of having proclaimed, ceaselessly and everywhere, the necessity of Belgium enlarging her borders. Fifty years ago King Leopold made this profession of faith and when he was allowed, as heir to the throne, to speak in the national councils, he expressed himself on this point with a frankness, energy and intuition of the future to which it is only right to render homage. At a time when there was certainly some credit in doing so, the future King of the Belgians, foresaw the economic changes which would result from the enormous progress of scientific knowledge and from its application to the subjection of natural forces, and to the taking possession of the globe. The royal watchman had kept his eye constantly on the horizon, and he accurately foretold how the day would dawn.

This is how on December 24, 1858, the Duke of Brabant, described the mission of the Belgian Government several years before his accession to the throne.

« Belgium, having been preoccupied until now in the establishment of her political system, and the perfecting of her laws, has scarcely had time or opportunity to consider seriously the peaceful conquest of those outlets which, although indeed, they are far off, are nevertheless so important that the development of our own industries and of those of our nearest neighbours requires us to search for them eagerly.

But to-day our internal organization is perfected, the

edifice of our liberties is complete, and it is only necessary to watch over its preservation; therefore it is now possible for the Government and the country to bring all their energies to bear on the solution of these problems on which the fortune of our nation depends. »

The need for an economic policy, new and daring, the necessity of fostering the development of our relations in all the markets of the world, are referred to in the following terms in the speech of April 9, 1853, the first which the Duke of Brabant made in the Senate :

« The perfection of our products and the cheapness of our prices give us the right to claim an important place in all the markets of the world. A young nation such as ours must be bold, always progressive and always confident in itself. Our resources are immense, and I am not afraid to say that we can reap large profit from them.

» To succeed we have only to dare. This is the secret of the power and splendour which our Northern neighbours, the United Provinces, enjoyed for more than a century. We possess, beyond a doubt, as many elements of success : why should we aim lower? »

The idea of opening to Belgium new horizons, in which the energy of our race should acquire new strength and to which the overflow of our productive activity could be diverted, is developed still more fully in the speech of February 17, 1860. This passage has often been quoted :—

« I am profoundly convinced of the extent of our resources, and I ardently wish that my beautiful country

may have the necessary boldness to reap the beautiful harvest which, I know very well, is capable of being produced. I believe that the moment has come for us to extend our territories and I am sure that there is no time to lose, if we would not see the few remaining good positions seized upon by nations more enterprising than ourselves. »

We ought to quote many other passages from this speech which fills no less than ten columns of our *Annales parlementaires*, and ends with the historical demonstration, applicable to all the great colonizing nations, of this truth : « Colonies have not only always served well the commercial interests of nations, but it is to these settlements that the greater number of them owe their greatness past or present, » One should have heard the Duke of Brabant's timely reminder to the Belgians that the sea washes their coast.

« Hitherto, Gentlemen,—excuse this plain language in a colleague who has no other desire than the common-weal, and only sees in our present prosperity the starting point of still greater success,—Belgium has hardly remembered that one of her boundaries is bathed by the sea. »

« The possession of a coast-line, of a magnificent port, perhaps unique in the world, are elements of riches of which we cannot make too much use, and of which successful nations have largely availed themselves. »

« Are not our 1,600 kilometres of railway lines, the oldest on the Continent, waiting impatiently for the State to complete and prolong them by means of regular lines of navigation to the principal markets of the world? »

At the sitting of March 21, 1861, we find the same insistence in terms that we should again like to quote.

« If this country consulted her best friend, from whom it has received the best proofs of affection and devotion, if she asked him : What must we do to raise to its highest degree the material and moral prosperity of the kingdom? would he not reply : Imitate your neighbours; extend beyond the sea whenever an opportunity is offered; you will find there precious outlets for your products; food for your commerce; an occupation for all the hands which you cannot employ at this moment; a useful way of disposing of your surplus population; a new source of revenue for the treasury, which may some day enable the Government, following the example of the Netherlands, to lower the taxes at home; finally, a sure increase of power, and a still better position in the great European family? »

It was then that the future Sovereign of Belgium advised the nation to practise what he called the policy of observation, in order not to lose such favourable opportunities as should present themselves.

« If this policy of intelligent observation and slow preparation for action, which I recommend to the country for the future, had been practised in the past, we should by this time have magnificent possessions beyond the sea. »

4. — THE WORK OF KING LEOPOLD II. AND HIS PROGRAMME.

The prince who thus spoke was induced, by the events mentioned at the beginning of this work, to give expression

to his ideas, thus serving at the same time in a conspicuous manner the cause of humanity.

Without neglecting to observe the prudence which the circumstances required, he did this simply, royally, and with the necessary sacrifices. The first results were not brilliant from a material point of view. Those who wished at any price that the enterprise should turn out a nopeless failure, are almost ready to complain now that it is gradually improving. Such people are indeed hard to please.

At all events to-day the edifice stands; and the simple statement of its formation, organization and working is its best claim to the appreciation of all impartial men.

From the Ocean to the dividing line of the Nile basin, the blue flag with the golden star is displayed and faithfully guarded. No other African colony of recent creation has pursued with more energy the entire occupation of her territory to the furthest borders. No other has caused the authority of her power to be more respected.

« Look at the Congo State, » said Lord Salisbury in the House of Lords. « Everything has not gone there as well as could be wished, but still a great domination is maintained. There are two sets of opinions; but what is undoubtedly true is that Belgium—a very much less powerful country than Great Britain—has been able to maintain the authority of her Sovereign over a territory much larger than the Sudan (1). »

The Government organization is complete. The Decrees are obeyed. The administrative hierarchy forcibly reveals itself under the double forms of unity and decentralization. Justice more and more strictly encloses in its meshes trans-

(1) *The Times*, February 8, 1899.

gressions of order, whether committed by natives or others.

The economic equipment is exceptionally powerful. The development of the land is advanced : the State is self-supporting, and its accounts balance. Taxation is equally distributed.

The army is numerous, trained and becoming more and more disciplined.

Imports and exports are continually on the increase.

Christian missions are protected and aided ; science is encouraged and developed.

And in spite of the scorching sun of the Equator, at the posts where they meet one another, the Governor, the Judge, the engineer, the explorer, the manufacturer, the merchant and the soldier, according to countless witnesses, do excellent work and lead contented lives.

Some ill-conditioned and discontented individuals, displeased for reasons best known to themselves, have not hesitated to vent their spleen by crying their imaginary grievances to the four winds and with much show of virtuous indignation by loudly denouncing the Congo Government to other Governments. We fancy, however that these men will not gain much by their pains ; unless we are vastly mistaken, the Powers will be exceedingly loath to espouse their quarrel, more especially as such action would infallibly hamper the development of a State which, in spite of almost insurmountable difficulties, has been valiantly conquered from barbarism by the Initiator of the African movement.

As regards Belgium, she is conscious that the great work accomplished on the Congo has powerfully served the

vital interests of the country, and has given rise to a spirit of enterprise fraught with the happiest results. And her confidence in the future can no more be destroyed than her gratitude for the past.

As to the observance of the rules which direct Congolese policy, the Sovereign, we may be sure, will manage that, and if it is no more possible for him than for any other ruler to prevent every individual breach of his regulations, he will know what to do in order that the wise and progressive programme drawn out by him shall triumph over these unruly elements. This programme he formulated again, not many years ago, in two memorable documents. We cannot better close these pages devoted to the study of State civilization in new countries, than by reproducing it.

The following is the text of the letter of the King-Sovereign to all his agents, recapitulating for them the general programme of their actions and indicating the spirit in which the Government desires to have the programme carried out :

Brussels, June 16, 1897.

Sir,

The agents of the Congo Free State have been much tried of late. Their ranks have been thinned by cruel and repeated losses. Associating myself with the unanimous expressions of regret aroused by these painful facts, I desire to pay my tribute of acknowledgment to all those who have so bravely sacrificed their lives in the accomplishment of duty.

Like every great cause, that which we serve in the Congo has had numerous martyrs.

To those on whom their cloak has fallen, I desire to address a few words, dictated by my heart.

The task which the State agents have to accomplish in the Congo is a noble and an elevated one. It is incumbent upon them to carry on the work of the civilization of Equatorial Africa, guided by the principles set forth in the Berlin and Brussels resolutions.

Face to face with primitive barbarism, and with customs, sanguinary and of long standing, their duty is to gradually put an end to this state of things. They must submit the population under new laws, of which the most imperious as well as the most salutary is assuredly that of work.

In uncivilized countries, a powerful authority is, I know, necessary to accustom the natives to the practices of civilization, which are altogether contrary to their habits. To this end, it is necessary to be at once firm and paternal. In a country like the Congo, the native population is the basis of its wealth and hence the first efforts should tend to assure its free development.

Civilized society attaches to human life a value unknown among savage peoples. When the latter are submitted to our will, it must aim at overcoming all obstacles. The result cannot be obtained by mere speeches, however philanthropic may be their tenor. But if, with a view to the necessary triumph of civilization, it be permitted, in certain cases, to have recourse to force, the ultimate sanction of right, it is none the less true that the final object is one of peace. Unnecessary wars ruin the countries in which they occur, as our agents know very well. Therefore, from the moment their

superiority is established, they are loath to abuse it. The unfortunate blacks who are still subject to their traditions alone, believe that victory is only effective when the fallen enemy is mutilated. The soldiers of the State are necessarily recruited from among the natives. They cannot immediately abandon the sanguinary habits transmitted from generation to generation, but the example of the white officers and military discipline will in due course make them hate the human trophies of which they were once proud. In their chiefs they should see the living demonstration of the higher principle that the exercise of authority has nothing in common with cruelty : the latter ruins the former.

I am glad to think that our agents, nearly all of whom are volunteers from the ranks of the Belgian army, always bear in mind the rules of the honourable career in which they are engaged. Animated by a pure sentiment of patriotism, recking little of their own lives, they will care all the more for the natives, who will find in them the powerful protectors of life and property, the kindly guardians of whom they stand so much in need.

The aim of all of us,—I desire to repeat it here—is to regenerate, materially and morally, races whose degradation and misfortune it is hard to realise. The fearful scourges of which, in the eyes of our humanity, these races seemed the victims, are already lessening, little by little, through our intervention. Each step forward made by our people should mark an improvement in the condition of the natives.

In those vast tracts, mostly uncultivated and mainly unproductive, where the natives hardly knew how to get

their daily food, European experience, knowledge, resource and enterprise, have brought to light unthought-of wealth. If wants are created, they are satisfied even more liberally. Exploration of virgin lands goes on, communications are established, highways are opened, the soil yields produce in exchange for our varied manufactured articles. Legitimate trade and industry are established. As the economic State is formed, property assumes a definite character, ownership, private and public the foundation of all social development, is strengthened and respected instead of being left to the law of chance and of the strongest.

Upon this material prosperity, in which whites and blacks have evidently a common interest, will follow a desire on the part of the blacks to elevate themselves. Their primitive nature will not always resist the efforts of Christian culture. Their education, once begun, will not be interrupted. In its success I see the crowning of the task undertaken by our people and so ably seconded by religious missionaries of both sexes. The most urgent part of the programme we wished to realise was to set up direct communication with the natives all over the Congo basin. And this was done in the course of fifteen years, without the help of any State, except that given by Belgium. The establishment of a complete, compact series of stations gradually substitutes for savage warfare, carried on incessantly between tribes and villages, a reign of peace.

From a geographical entity, physically determined, the Congo State has become a country with distinct frontiers, occupied and guarded at every point,—a result

almost without precedent in the history of colonization, which is explained by the concentration of our united efforts on a single field of activity.

Our own difficulties will be considerably lessened in a short time when the railway between the Lower-Congo and Stanley Pool is completed.

I here make a renewed appeal to the devotion, of which our agents have already given such abundant proof, that the establishment of this means of communication may bear fruit as soon as possible. It will closely connect the Congo with the mother country, it will afford all Europe, which watches our proceedings so keenly, an opportunity to take an intelligent and kindly interest in our work. It will, finally, expedite our progress, and it will speedily introduce into the vast regions of the Congo, all the benefits of our Christian civilization.

I thank our agents for their efforts and I reiterate to them the expression of my royal regard.

LEOPOLD.

EDM. VAN EETVELDE.

This finally is how, on that memorable day—October 16, 1898—at the time when the whole town of Antwerp, invited by the Chamber of Commerce of the city, celebrated with festive splendour the great Congolese work, the King-Sovereign briefly reminded them of his programme and once more repeated the principles which constitute the corner stone of the policy of the State :—

The Congo State will endeavour to deserve the good-

will of the Powers by punctually fulfilling the duties of neutrality. Accepting all the aid which may be offered it, nay, anxiously seeking it, it will never forget its duties to itself; but will march with a firm step in the path it has planned for itself, and will continue to give proofs of a real and fruitful life; its administration will be pursued in the triple interest, national, international and civilizing, which has guided its first years.

ANNEXES.



ANNEX I.

Regulations respecting direct and personal taxation.

We LEOPOLD II., King of the Belgians,
Sovereign of the Congo Free State,
To all present and to come, Greeting :—

Whereas it is expedient to consolidate and complete the existing legal provisions in reference to direct and personal taxation ;

Upon reviewing the Decree of July 16th 1890 and Order of September 3rd 1890 issued in pursuance of Article 2 of said Decree ;

Upon reviewing Article 4 of the Decree dated October 6th 1891 and the Decree of November 28th 1893 ;

By and with the advice of our Secretary of State,

We have decreed and do decree :—

ARTICLE 1.

The text hereunto annexed shall form the Regulations respecting direct and personal taxation.

ARTICLE 2.

Our Secretary of State is entrusted with the execution of the present Decree.

Given at Brussels this 18th November 1903.
LEOPOLD.

By the King-Sovereign :—
In the name of the Secretary of State :—

The Secretaries-General,

H. DROOGMANS.
Chevalier DE CUVELIER.
LIEBRECHTS.

GENERAL PROVISIONS.

ARTICLE 1.

Non-natives, whether private persons or companies or associations of any description, having establishments in the Congo Free State, are liable to the payment of direct and personal taxes, in accordance with Title I. below, and on the following assessments, namely :—

1st assessment.—Area of buildings and enclosures occupied by them ;

2nd assessment.—Number of clerks and workmen in their service ;

3rd assessment.—Vessels and craft in their use.

ARTICLE 2.

Every adult and able-bodied native is liable to the contributions established by Title II. of the present Regulations. Such contributions shall consist in labour to be effected on account of the State. The work must be remunerated and in duration, it shall not exceed altogether forty hours of actual labour per month. The remuneration shall not be less than the rate of wages which are actually being paid in the place.

TITLE I.

Taxes due by non-natives.

CHAPTER I.

First assessment : Buildings and enclosures.

ARTICLE 3.

The tax on buildings and enclosures, except such as are in the use of the State, shall be assessed per square metre of interior area, at the annual rates appearing in the following schedule :—

| | RATES. |
|--|--------|
| A. Dwelling houses and premises (such as offices, kitchens, bath-rooms, &c.) fr. | 1.00 |
| B. Warehouses and other closed and roofed buildings for whatever purpose used, except for human dwelling fr. | 0.75 |
| C. Buildings used exclusively for lodging negro labourers fr. | 0.50 |
| D. Sheds, roofed, but open or grated on all sides, for whatever purpose used fr. | 0.50 |
| E. Yards and enclosures used for storing or handling goods fr. | 0.25 |

Fractions of a square metre shall be disregarded in assessing the tax.

ARTICLE 4.

When a building has several stories, the area of each floor used for the purposes of human dwelling, lodging or the like shall be rateable under letter *A* of Article 3; the ground or other floors which are used exclusively as warehouses or consist of roofed sheds, though open or grated on all sides, shall be assessed at the rates fixed under letters *B* or *D*, whichever applies.

ARTICLE 5.

When a closed and roofed building is used both for dwelling purposes and as a warehouse, the tax shall be payable in proportion to the area of each separate part, according to letters *A* and *B* of Article 3.

ARTICLE 6.

The space covered by verandas or balconies must be included in the area rateable under letter *A* of Article 3.

CHAPTER II.

Second assessment : Clerks and workmen.

ARTICLE 7.

The annual tax to be paid in respect of the number of clerks and workmen is fixed as follows, namely :—

| | | | |
|-----------|---|-----|-------|
| <i>A.</i> | For every clerk or office assistant | fr. | 30.00 |
| <i>B.</i> | For every non-native workman or servant | | 20.00 |
| | Do. native do. do. | | 10.00 |
| <i>C.</i> | For every native labourer employed in agricultural work | fr. | 5.00 |

ARTICLE 8.

The tax shall be computed according to the number of clerks and workmen permanently in the service of each rate-payer, or habitually employed by him at least three days per week.

ARTICLE 9.

The rate mentioned in letter A of Article 7 shall apply to all such persons as, being in the service of private parties or of any agricultural, commercial or industrial concerns whatsoever (including factory managers carrying on business on behalf of principals), are not employed exclusively in manual labour.

ARTICLE 10.

Negro workmen or servants, whatever be their country of origin in Africa, shall be assimilated for the purposes of the tax, to native workmen and servants.

CHAPTER III.

Third assessment : Vessels and craft.

ARTICLE 11.

The tax shall be chargeable annually in respect of every vessel or craft, whatever be the kind of transport for which the same is used or is to be used, according to the following discriminations and rates, to wit : —

For every steamer :—

| | |
|---|---------|
| 1. Of a burden of 50,000 kil. and upwards . . . fr. | 1600.00 |
| 2. Do. of 20,000 and up to 50,000 kil. . . | 600.00 |
| 3. Do. of less than 20,000 kil. | 400.00 |
| For every steam pontoon. | 350 00 |

Pontoons or vessels permanently anchored :—

| | |
|---|--------|
| 1. Of a burden of 100,000 kil. and upwards. . fr. | 600.00 |
| 2. Do. of less than 100,000 kil. | 400.00 |
| For every sailing vessel | 200.00 |
| Do. sailing launch or lighter of iron | 100.00 |
| Do. rowing boat or craft | 40.00 |

ARTICLE 12.

No assessment of the direct and personal tax shall be made in respect of the following :—

1. Ocean-going ships, and vessels engaged in the broader coasting trade, *id est* all vessels which in the usual course of their voyages go beyond the latitude of Cape Lopez to the North or the latitude of Cape Frio to the South;

2. Craft propelled by paddles, the property of natives and not being specially attached to the personal service of non-natives, or to the service of a commercial, industrial or agricultural undertaking.

CHAPTER IV.

Liability to payment of the tax.

ARTICLE 13.

The tax according to the first assessment shall be payable by private persons or by any companies or associations occupying or carrying on business in the premises

referred to in Article 3, whether as owners, tenants or in any other capacity whatsoever.

ARTICLE 14.

The tax according to the second assessment shall be payable by persons having clerks or workmen in their employ.

Rate-payers liable to the tax according to the first assessment, on the house and other property referred to in Article 3, shall be further liable thereto in respect of all servants and workmen employed in such premises.

ARTICLE 15.

The tax according to the third assessment shall be payable by private persons and by companies or associations having vessels or craft permanently under their control for their own use or for the purposes of commercial, agricultural or industrial establishments carried on in the Free State territory.

ARTICLE 16.

The assessable headings existing at the commencement of the year shall be taken as basis for the annual payment.

Any fresh rateable elements acquired during the first quarter of the year shall be additionally assessed; the tax shall be payable for the full year on such new rateable headings.

The new rateable elements acquired after the expiration of the first quarter shall not be taxed for the running year.

ARTICLE 17.

No abatement or refund of tax shall be allowed by reason of diminution of rateable elements occurring during the year.

CHAPTER V.

Return of rateable items.

ARTICLE 18.

Every tax-payer is required to make out and send to the collector of taxes at Boma, prior to the 15th January in each year, a return in writing showing the rateable items under his control at the beginning of the year.

If, previous to the expiration of the first quarter of the year, he should acquire rateable elements which are not included in his original return, he is required to make a further return thereof before the 10th April.

ARTICLE 19.

Private persons, companies or associations having several establishments in the territory of the State shall make a separate return for each of them.

Every such return shall indicate in regard to the establishment to which it relates, the items rateable under the first assessment and also the number of clerks and workmen and further the number and kind of vessels and craft, which are specially attached to the establishment concerned.

Clerks and workmen who are not specially attached to any specified establishment—more particularly those who usually trade in localities where the person making the return does not carry on a factory— or who are attached to the service of ships, must be included in the return relating to the principal establishment occupied or carried on by the tax-payer in the territory of the Free State.

This likewise applies to vessels and craft belonging to private persons or to companies having one or more establishments in the Free State territory, when such vessels or craft are trading in the waters of the State, without being specially attached to any one of said establishments.

ARTICLE 20.

The returns must be delivered to the collector of taxes of the Boma Office within the time determined by Article 18.

They may be addressed to him either through the tax collectors at Banana, Luali, Matadi, Stanley Pool or through the District-commissioners or Custom-house officials at the eastern frontier of the State.

ARTICLE 21.

Forms of return to be filled up by tax-payers in respect to rateable items existing at the commencement of the year shall be distributed by the officials designated in Article 20 : Provided always that the non-receipt of a form shall not dispense any person from making the requisite return within the time prescribed.

ARTICLE 22.

The additional returns provided for in the second paragraph of Article 18 shall be made on a return addressed to the collector of Boma. The same shall state the new rateable items acquired during the first quarter.

CHAPTER VI.

De officio assessment.

ARTICLE 23.

A Commission consisting of the controller of taxes, the tax-collector at Boma and another official appointed by the Governor-General, shall assess *de officio* such persons liable to the tax as refuse or omit to duly make the required returns.

The Commission will proceed to fix the assessment according to the best information in their possession or procurable by them, but so that they shall not be bound to make enquiries or investigations on the spot; and 20 % shall be added to the valuation of the items rateable under the first assessment so made by them.

ARTICLE 24.

The assessments made *de officio* according to Article 23 shall be recorded in a declaration under the hand of the Members of the Commission; they shall be final and not be subject to revision unless, at the time of lodging the over-

due return, the person concerned proves to the satisfaction of the Commission, that he could not possibly make it in time.

In that case, the Director of Finance will order the sum overcharged in the *de officio* assessment to be refunded in whole or in part.

CHAPTER VII.

Recovery of the tax.

ARTICLE 25.

The collector of taxes at the Boma Office shall draw up the tax roll for the whole territory of the State according to the rate-payers' returns and according to the official assessments provided for in the foregoing Chapter VI.

ARTICLE 26.

He will send to each tax-payer a notice showing the assessment and amount of his rates : Provided always that the non-receipt of such notice shall not dispense the rate-payer from discharging the tax within the period stipulated in Article 27.

ARTICLE 27.

The tax for each year must be paid in full to the collector at the Boma Office, at latest by the 1st July.

It will be optional for the tax-payer to discharge the amount at the time he delivers the return.

If the tax-payer is adjudicated a bankrupt or is in a state of insolvency or is preparing to alienate any real property which might offer security for payment of monies due to the State, the tax shall be payable forthwith.

A rate-payer who leaves the Free State territory is bound to pay the whole amount of the tax previous to his departure.

TITLE II.

Contributions in kind due by natives.

CHAPTER I.

Contribution lists.

ARTICLE 28.

Before the 1st September in each year, the District-commissioners shall draw up, within the limits of Article 2 of these Regulations, lists of contributions of labour—showing the kind and duration—to be furnished for the ensuing year, by each native residing within their respective Districts.

With the view of fairly and equitably determining the labour imposed, they will consider the nature of the work to be performed, also the age and aptitudes of the natives liable to the contributions.

ARTICLE 29.

Exemption from the contributions provided for in Article 28 shall be granted, during the term of their engagement, to native labourers employed in stations, missions, ports, railways or any other public or private

undertakings generally whatsoever, under contracts entered into pursuant to the Decree of November 8th 1888 relating to the hire of service of the natives.

Natives who gather rubber in ownerless lands as provided in Article 1 of Decree dated October 30th 1892 and who pay the State the royalty established in Article 7 of same decree, shall be deemed to have furnished the contributions.

ARTICLE 30.

The contribution lists shall be submitted to the Governor-General for approval, whereby they shall become enforceable save otherwise ruled by Us.

ARTICLE 31.

The District-commissioners shall enter in the lists prepared by them the quantities of the different products corresponding to the number of hours of work imposed, subject to taking into account, as far as practicable, under what conditions the natives have to reap the harvest, such as the richness of forests, their distance from the villages, the nature of the produce to be gathered, the mode of harvesting, &c., and they may, in their discretion, exact in lieu of the imposed hours of labour, the corresponding quantities of produce, either in respect to each individual native, or to a group of natives or native villages.

CHAPTER II.

Recovery of contributions.

ARTICLE 32.

Chiefs of posts, acting under the supervision of District-commissioners, are charged with the recovery of the contributions.

ARTICLE 33.

Officials charged with the recovery of the contributions may, at the request of native chiefs and with the permission of the Governor-General, form natives into groups of individuals or villages; under the authority of their chiefs, for the purposes of payment of the contributions.

In that case, they are specially required to enforce due compliance with the sanctioned rolls and to institute proceedings, in accordance with Article 35 below, against native chiefs who fail to comply with the rolls in recovering the contributions.

ARTICLE 34.

Assessed natives may be allowed to discharge their contributions by delivering to the State the specified quantity of products grown or manufactured by them. For this purpose, District-commissioners shall each year prepare a schedule showing the value, in various native products, of the hour's work in the different regions of their district.

This schedule shall be approved by the Governor-General at the same time as the contribution lists.

ARTICLE 35.

The Governor-General may appoint in such regions as he deems fit, delegates for the purpose of collecting the proceeds of the contributions, in such manner as he shall determine.

CHAPTER III.

Special supervision.

ARTICLE 36.

A Royal High Commissioner, with the special co-operation of the State Inspectors, shall control the preparation of the lists, the equitable apportionment of the contributions and the remuneration of work done by natives.

TITLE III.

Proceedings to recover taxes and contributions.

CHAPTER I.

Preferential claim of the State over property belonging to tax-payers.

ARTICLE 37.

The State shall have a preferential claim over all real and personal property belonging to tax-payers, in regard to the payment of taxes for the current year and previous year as well as for the payment of expenses of proceedings.

CHAPTER II.

Proceedings relating to taxes due by non-natives.

ARTICLE 38.

Proceedings to recover taxes due by non-natives shall be instituted by Bailiffs (*huissiers*), on the requisition of the collector of taxes.

The Bailiffs shall issue writs, effect attachments and

sales, with the exception, however, of sales of real estate, which shall be conducted by Public Notaries.

ARTICLE 39.

The proceedings shall be commenced on a warrant issued by the Director of Finance, with whom are to be lodged all complaints concerning payment of impositions and proceedings.

Unless otherwise directed by him, the proceedings, including attachment and sale shall be carried to execution, notwithstanding any protest on the merits of the case.

Disputes affecting the validity and form of the proceedings shall be referred to the Courts. In case of contention on the subject, the protest will suspend the execution of the attachment until the Court has given a decision on the matter.

ARTICLE 40.

A writ may be issued against any tax-payer on his failing to discharge his taxes after the same have become legally payable.

Prior to commencing proceedings and save in case he should consider that delay might prejudice the interests of the State, the collector shall serve the tax-payer with a final notice to pay within a fortnight.

ARTICLE 41.

On the expiration of that period or, if so deemed fit by the collector, prior to the expiration of any delay, a writ shall be served on the tax-payer ordering him to pay

within eight days, under penalty of execution by way of distress on his real or personal property.

ARTICLE 42.

After the time allowed in the writ has expired, the collector shall cause to be attached such portion of personal effects or such real property as he deems necessary so that, when sold, the proceeds would be sufficient to satisfy the sums due to the State.

ARTICLE 43.

At least eight days after the report of the attachment has been notified to the tax-payer, the attached articles shall be sold to the extent of the monies due and expenses.

If no bidder comes forward or if the articles can only be knocked down at a very low price, the Bailiff or Notary may refrain from selling, in which case he will draw up a memorandum of non-adjudication and the sale shall be postponed to a later date.

Several successive adjournments may take place.

ARTICLE 44.

The gross proceeds of the sale shall be paid over to the collector who, after retaining the sums due, will hold the surplus at the disposal of the interested person during one year, after which limit all unclaimed amounts shall be forfeited to the State.

ARTICLE 45.

The enactments in force in reference to attachments and sales under judicial authority in civil and commercial

matters, shall apply to attachments and sales connected with the recovery of taxes, provided always that nothing contained in this Title shall purport to derogate therefrom.

CHAPTER III.

Proceedings relating to contributions.

ARTICLE 46.

If natives who are liable to contributions have any property belonging to them, the recovery of unperformed contributions shall be levied on their property within the limits of Article 49 hereinafter appearing.

ARTICLE 47.

The proceedings shall be taken on the application of the officials entrusted with the recovery of the contributions, and pursuant to warrants issued by the District-commissioners, with whom are to be lodged all complaints concerning the execution of contributions.

ARTICLE 48.

The provisions contained in the foregoing Chapter shall apply to proceedings taken to recover the contributions, and the duties of the collector shall be fulfilled by the officials charged with the recovery.

ARTICLE 49.

The huts used by natives to live in, the furniture, tools and the crop necessary for their family life shall be unattachable.

TITLE IV.

Penalties.

ARTICLE 50.

Every official in the service of the Finance Department, and also the District-commissioners, the officials charged with the recovery of contributions and such others as the Governor-General may designate hereafter, shall be qualified to investigate and record contraventions in the matter of direct taxation and for that purpose they are hereby commissioned as Judicial Police Officers.

ARTICLE 51.

Every tax-payer who has neglected to make the returns required by Chapter V. of Title I. or who, in his statement, has omitted to enter a portion of rateable items shall be liable to a fine amounting to ten times the defrauded rates.

The fine for neglecting to make the return shall not be less than 100 francs for each non-reported establishment. In addition to the fine, the tax shall be immediately payable on the unreturned rateable items.

In regard to the first assessment of the tax, no penalty shall attach and the extra rates shall alone be charged

provided the actual area, for each description of buildings and enclosures, does not exceed by more than 5 per cent. the area returned.

ARTICLE 52.

The Officials designated in Article 50, when checking the accuracy of the tax-payers returns and investigating cases of contravention, shall not enter into the interior of buildings and enclosures except upon an order in writing from the Director of Finance, and then only between the hours of 8 a. m. and 5 p. m.

The Officials shall give the owner, tenant or manager of the establishment notice of their visit, and invite him to attend or be represented at their operations. In case a contravention has been detected, the request aforesaid shall be noted in the statement of facts, but under no circumstances can the absence of the person concerned or his agent warrant an adjournment nor can this fact invalidate the investigations of the Officials.

Refusal to admit the Officials or impediment put in their way when discharging their investigation duties shall render the person making the return according to Chapter V. of Title I. liable to a fine of 200 francs, over and above any penalty incurred under the first paragraph of Article 51. In that case, the investigation shall be conducted by an Officer of the Public Prosecutor or by a Judicial Police Officer specially designated for the purpose, who shall proceed in the manner prescribed for domiciliary visits in criminal cases.

ARTICLE 53.

So soon as a report is drawn up to show that the provisions of Title I. have been violated, the detectors shall deliver or send a copy to the contravener, and transmit the original document to the Director of Finance.

The Director of Finance shall decide whether legal proceedings are to be taken in the matter, and, if necessary, shall transmit the report to the Public Prosecutor of the State, for that purpose.

The Director of Finance may, prior to the proceedings being commenced, and if he considers that extenuating circumstances exist in favour of the contravener, allow the latter to compound the fines incurred, subject to at once paying the amount of the tax together with such portion of the fine as shall be maintained.

ARTICLE 54.

In case of refusal to pay the contributions in kind, and failing the natives owning real or personal property, they may be compelled to discharge same by the authorities charged with the collection, and forced labour may be imposed for the purpose.

An appeal against decisions adopted under the preceding paragraph may be lodged with the District-commissioner.

ARTICLE 55.

Any person charged with the collection of the contributions assessed under the present Decree shall be liable to penal servitude of from one month to one year or

to a fine of from 100 to 2000 francs in the following cases :—

1. Exacting from natives either in the shape of tax in kind or as hours of labour, contributions exceeding in value the rates provided for in the taxation lists;
2. Omitting to remunerate the labour performed according to Article 2, § 2;
3. Neglecting to comply with the requirements of Article 33, § 2;
4. Unduly or arbitrarily exercising compulsion in the case of Article 54.

ARTICLE 56.

All former provisions affecting matters covered by these Regulations are hereby repealed, save the Decrees dated May 28th and June 25th 1902.

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TEMPORARY PROVISION.

For the year 1904, the District-commissioners shall prepare the contribution lists within one month from date of operation of these Regulations, and shall provisionally carry the same into effect. After approbation of the Governor-General, these rolls shall become final save otherwise ruled by Us.

ANNEX II.

*Speech as to the **Anglo-Congolese contention**, delivered by Baron DESCAMPS, President of the Royal Academy of Belgium, on 11th May 1904, at the « Palais des Académies ».*

« After thoroughly studying with a spirit of justice, moderation and pacification, a question of international law and colonial policy deeply interesting the country, it is my good fortune to have an opportunity to expound the matter in this Palace of Science foreign to political passions, in my capacity of President of an Academy whose members are in unison in the unbiased worship of Truth—the more so as since the original edition of our *New Africa*, facts have taken place and documents have been published all which are deserving of notice (1).

« Always will there be in the world a sufficient number of elements of dissension and conflicting handicrafts never will there be sufficient attempts at union and peaceful workmen. » These words written by me some ten years

(1) Resolution of the House of Commons, dated May 20, 1903. Reply published in the June 1903 issue of the BULLETIN OFFICIEL DE L'ÉTAT INDÉPENDANT DU CONGO.—First Note from the Foreign Office, of August 8, 1903. Reply from the Congo Free State, of September 17, 1903.—Second Note from the Foreign Office, of February 11, 1904, and accompanying documents, to wit, Consul Casement's report under date of December 11, 1903. Second reply from the Congo Free State dated March 12, 1904.

since in a « Memorial of the Powers, » the conclusions of which have met with approbation in various quarters, recur to my mind just now that we want to endeavour to throw a little more light on the points raised by the Anglo-Congolese dispute, while remembering, in spite of the present differences, to what extent Belgium is indebted to a great neighbouring country and also the great services rendered by England to the cause of civilisation and liberty.

The British Empire is undoubtedly the vastest empire that has ever existed. It is scattered all over the surface of the globe covering a fifth of emerged land and powerfully rules the Ocean, that highway of the Universe. The populations collected under its sceptre form a quarter of the inhabitants of our planet, and cover men of every race, living in various climates and at every stage of civilisation. And beyond that dominion, the eye further discovers immense regions where there are other communities — some of the largest in the world — who besides their origin, owe to British thronging, one of the most fecundating principles of their existence.

The creation and maintenance of this Empire is not merely due to a lucky juncture of circumstances. Although the share usually allotted to such a concurrence in great human undertakings should not be disregarded, one ought rather to greet in this gigantic efflorescence of public power the genius of a nation which by boldness of initiative and by an unshaken mind of perseverance has been able to display a first class practical organising power which, in the masterly manner of freely governing itself, has found the secret of governing others. There is no

finer lordship than one's own, as even the Ancients used to say—nor, might it be added, is there a more fruitful one.

A remarkable fact should be noted : Notwithstanding indications resulting from its insular position, England has taken centuries to ascertain her natural vocation. For a considerable time, she remained indifferent to the discovery of the New World by connecting the conception of her greatness not with the idea of an ocean power, but with that of a European continental power. The moment, however, that she had taken the direction of a more productive destiny, she strove with unremitting energy to conquer supremacy of the seas and to take the « spolia opima. » As I explained elsewhere, « colonization is the » most powerful expression of the national tendency of » England; it is identified with the economic life of the » country (1). » Time has enabled Great Britain to hoard up in this connexion treasures of experience of which she is justly proud. For my part, I know few men who leave such an impression of broadened and matured minds, from having come into contact with men and things, as former Colonial Governors—some of whom kindly honour me with their friendship—who after personalizing the British spirit in the most promiscuous colonial surroundings, labour in the centre of the Empire to maintain and develop that same spirit.

And since I have just referred to the illustrious men of

1. *New Africa. An Essay on Government civilization in New Countries and on the foundation, organization and administration of the Congo Free State*, 1903, p. 386. English Translation.

England, may I be allowed at this meeting to pay a homage of admiration and of gratitude to the glorious explorer of whom death has just deprived his country and the world by him extended in horizon : to the great Stanley whose marvelous discoveries are bound fast with the foundation of the Congo Free State by our King (*Prolonged cheers.*)

It occasionally happens in economic matters—and perhaps in others besides—that those who excel have a certain propensity to show themselves severe with those who inadequately or differently cultivate a mutual branch of activity. The colonising efforts of other Governments are scantily estimated in England where aptitudes to colonise are, as a rule, even looked upon as the appanage of a few rare—in fact very rare—privileged nations.

I believe that in describing in my Essay on *New Africa* the extension of modern colonisation, I proved that, in the case of certain nations, colonial enterprise has ceased to be a mere means of free expansion but is a work of necessary evolution ; that for such and such minor States this law of evolution may be quite as imperious as for other and larger countries and that a colonising underpart of the small States if it be well understood and applied to a clearly defined task can usefully serve the general cause of civilisation and harmonize with the interests of other nations (1).

With a general expansion movement such as is now taking place in colonisation, clashing of interests and even disputes cannot fail to arise ; this is not to be particularly wondered at nor should the importance which such diffe-

(1) *New Africa*, p. 38. (English translation.)

rences might present be disregarded. The better plan would be to devise some good means of allaying the former and settling the latter, by removing as far as possible, such obstacles as might stand in the way of objective solutions. Such is the task that commends itself to those who believe they are acting properly by working, through passing dissensions, to secure the fraternal rapprochement of nations and for our part, we do not aim at any other.

1.—*The differences.*

To a certainty, it is unnecessary to be a conjuror in order to perceive that of late the feelings of the main portion of the great British public have not precisely been, in regard to the Belgians and the Congo Free State, what they were either at the time when Great Britain so warmly took in hand our cause before Europe, or when she concluded with the Free State friendly agreements affecting boundaries or international leases. It would not be right, in my opinion, to attribute this altered position to any misconception, on the part of English statesmen, of the useful rôle which an independent Belgium is calculated to perform in Western Europe, nor can it, I think, be supposed that English public opinion should now totally disregard the remarkable character—officially recognised over and over again—of the efforts displayed on the Congo by the Belgians and by their King.

Certain contingent facts which *per se* are not bound up with the present dispute have contributed in an appreciable degree to determining in our powerful neighbours beyond the Channel the *status animæ* to which we have just

referred. And perhaps they should not be connected exclusively either with the Congo Free State or with Belgium. Without intending to recall them all, I will be content with pointing out, amongst the incidents which have materially influenced the present direction of the English mind, the attitude of a portion of the Belgian public opinion and press during the long South-African War.

Highly regrettable demonstrations did take place but be it remembered, these excessive manifestations—which are far from having been confined to Belgium alone and, in a country one half of whose population is Dutch, can perhaps be better accounted for than in other nations—were disclaimed in Parliament by those responsible for the Government and by the most authoritative representatives of the Nation. Moreover, it would seem hardly necessary to state that in countries—like England and Belgium—where the liberty of the Press is flourishing, violation of such freedom is not binding upon the authorities who, though not always being sufficiently armed to avert misuse, do everything in their power in that direction. In my study on Belgian neutrality (1), I explained in what manner every Government that has been in power made it a point, in connection with older wars, to give the press sound advice and patriotic caution.

This advice has not always been heeded, hence frictions abroad. Instances of these occurred in France in the

(1) *La Neutralité de la Belgique au point de vue historique, diplomatique, juridique et politique. Etude sur la constitution des Etats pacifiques à titre permanent*, 1902, p. 435.

time of the Empire and in Germany, during the Franco-German War. But such feelings never long survived the events out of which they arose. The fact is, certain grievances, however justified for the time being, cannot be transformed into standing grievances owing to their very nature being adverse to such a transformation. In what measure have certain political questions connected with boundaries and international leases mixed up their dissociating action with the interference referred to? It is not my purpose to investigate the matter before this Meeting, for want of the necessary documents to enable me to do so. Be it noted, however, that the starting point of the present position of affairs is found in diplomatic instruments concluded on the application of Great Britain and so favourable to the latter as to cause the other neighbouring nations to take umbrage.

Since then, the situation is no doubt altered in the regions referred to in the Acts and one can understand that this circumstance should be a starting point for a particular negotiation in view of making arrangements. But by itself, it clearly cannot invalidate, legally, International Treaties which, according to a universally recognised rule, must be rescinded in the same manner as they are made, the will of the contracting parties constituting the essence of the agreement.

That here in Belgium, we should attach the greatest importance to the principle of permanency of treaties is not a matter to be wondered at. This old standing rule was inculcated in us, from the very origin of our nationality, by the great Powers in particularly remarkable terms in the « Protocol setting out the system adopted by

the London Conference. » And it is well known—by way of reminder of another memorable precedent—that in the Protocol to the further London Conference of 17th January 1871, the same tutelar rule was suggested by Great Britain and solemnly recognised by the Powers as « an essential principle of the law of nations. »

I do not pretend to anticipate the solutions of the future affecting the territorial questions to which I have just alluded but I can hardly conceive that arrangements whose cradle was illuminated by the pure rays of an *entente* particularly amicable are to eschew the good influence of the constellation under which they were born.

Having made the foregoing remarks, I would say that the Anglo-Congolese contention has, from an English standpoint, crystallised itself, as it were, into a twofold grievance *viz.*, the grievance on economic grounds and the grievance on humanitarian grounds. Let me deal with them separately.

2. — *The grievance on economic grounds.*

The grievance on economic grounds occurs to me under two chief aspects. First it will bear upon complaints in respect of the friction of interests, then it will take the form of claims by reason of injured rights.

To begin with, I will say a word about the friction of interests. This arises out of disappointments experienced by certain English traders. The British trade has not developed in the same proportion as has been reached by Belgian trade on the Congo. This can very well be accounted for, without indicting the State in any way, to

any person willing to note that the Belgians were the men who, by their sweat and blood, fertilized the Congolese work. On the other hand, it is obvious that our countrymen, who originally had but slight experience and were ill-equipped as regards colonial exportation, but who afterwards served their apprenticeship and became acquainted with the mode of manufacturing articles of current demand on the Congo—these articles only being turned out in England originally—should have striven to avail themselves of the Congolese market. And so it happened that the old English adage « The Flag carries trade with it » verified itself to their advantage. Great Britain has benefited from this maxim in too large a measure all over the world to be entitled to find fault with its application in one particular case.

Nor is this actually done, at least with the many English traders who understand reason. The reproach levelled at the economic policy of the Free State is first, for having unduly favoured Belgium on the Congo by granting concessions to Belgian companies only; then, for having absolutely violated the conditions laid down for trade in general in the Conventional basin. This latter issue affects that important juridical controversy which I shall come to by-and-by. To begin with, I will consider the first allegation.

Why numerous Belgian companies have been formed can be sufficiently explained by the fact that at a time when the risks were great and when foreign capital kept aloof, these companies *did* venture themselves on the Congo. In regard more especially to English undertakings, persons who are at all familiar with history will, I think not deny

me when I recall the following fact : It is well known that during a particularly trying period of the life of the young State, British capitalists appeared to wish to have nothing whatever to do with Congolese concerns and even to make a void in the midst of such undertakings, by retreats which had every appearance of abandoning the Congo to its unfortunate fate.

In these circumstances, when in spite of this both regrettable and regretted abstention, in spite of this kind of retreat on the Mons Aventinnus, business has flourished on the Congo and turned to the profit of men of audacity and perseverance, is it reasonable that English capitalists should complain of being ousted from an outlet which had been opened to them, but from which they systematically as it were became severed? Every straightforward man of business will acknowledge that this would no longer be fair play.

I now come to the main reproach namely the contention that the State has been guilty of regular violations of the rights guaranteed to trade by the Berlin Act.

The juridical controversy raised in this matter appears to have gone through two phases.

In an initial phase, much was made of the system of the universal and permanent raid, by erecting the commercial liberty according to the Berlin Act into an absolute obstacle to either the State or its lessees becoming holders of any property. This system, which I examined at length in « New Africa » now appears to be abandoned.

At the present time, the system sustained on the strength of the primitive right of the natives, is the system of partial and temporary raid subject to retrogradation

according to backsets resulting from the progress of individual occupations. This system was propounded in the recent English diplomatic notes : I will consider it for a few minutes.

A great French thinker has said : « That part of my head which is intended to take in matters that are not clear is very narrow. » Those who suffer from the same *angustie* as Joubert and who on reading the English notes endeavour to fathom their exact meaning as regards the argument of applied colonial law which they contain, cannot fail to experience at first certain difficulties of intellectual assimilation. Traces of these difficulties are met with in the writings of all those who have thoroughly had to deal with the diplomatic documents referred to. « What is the meaning of the expression *bona fide occupants*, » M. Etienne wondered (1)? « What must be understood in the system of the Note by *bona fide occupants* and by *individual occupation*, » states in its turn the Reply from the Free State to the English Government? And yet, according to the Foreign Office, the knot of the contention rests there.

A fundamental elucidation of this point does not seem easy at first sight. After a while, however, and after carefully sifting the English argument, light comes forth ; only such light does not appear to emit in favour of the argument propounded.

Let us begin by rendering to the English note of the 8th August 1903 the justice that it has caused the con-

(1) *Le Congo et l'Acte de Berlin*, REVUE POLITIQUE ET PARLEMENTAIRE, 40 novembre 1903.

troversy to advance a long stride by eliminating from the discussion certain elements with which it was encumbered.

For instance, the British Government have perfectly realised and admitted the impossibility to sustain that the State has no right to fix upon its territory the destination of vacant lands. Such a right is in fact universally recognized and well known to be exercised in England and to deny it in the present case would have been adopting a construction of the Berlin Act repugnant to what has been admitted, in fact, by the various States holding possessions in the Conventional basin of the Congo.

The British Government have further admitted the impossibility to deny in principle to the Act of sovereignty concluded on these lines its full natural effects *erga omnes*, native or non-native. It accordingly does not hesitate to admit—subject to the reservation which I will indicate presently—that the partition of the lands by the Sovereign involves the legal corollary « that the natives shall cease thenceforth to be considered as having the right of roaming over the divided lands for the purpose of gathering thereon the natural fruits of the soil and disposing of the produce as they please. »

But—and here commences, properly speaking, the difference of opinion—the Foreign Office contends that the allotment in freehold or concession in leasehold of formerly unoccupied land, legally granted by the State, is to remain inoperative in law, in respect at least to natives and to those who may enter into relations with them, in case and to the extent that the grantee in which this title or right of user is absolutely vested, has failed to exercise his legal power of exploitation by reducing the land into individual

occupation, *id est*, by effectually working it himself or causing it to be worked by his principals. Until that is done, the fruits will remain *res nullius* though the land has ceased to be so. Let us go to the point. The State is in vital need to build a railway upon its territory. It would not be sufficient, to cover the risks of the undertaking, that the contractor were merely allowed to charge fares for the result would be the establishment of most excessive rates. To the right of charging fares, the State adds a conveyance of a few thousand acres. This assignment only carries the authority to enjoy the fruits growing on the conveyed property to the extent that the contractor actualises this user. For the remainder, the assigned property will remain *raid* land open to the devastation of all, pending such time as the owner turns the property to account, were it even that, prior to his doing so, the havoc wrought had crippled any subsequent attempt on his part to avail himself of the property. Such is the system taken at random in one of its applications.

As a matter of fact, the British Government appear to hesitate to claim direct for any white man, who prior to the land being allotted, had not been connected with it in any way, the right to rush upon conveyed land with the view of collecting its produce himself. Surely it is not an easy matter to find that such a person has any right to substitute himself to the legal owner and to remove the fruits growing on another man's estate. Then, with the best of will, there could clearly be no question of considering such a personal *raid* on a property as a commercial act : inasmuch as in order to trade, it would seem that there must anyhow be two parties ; now, in this instance,

I fail even to find the realisation of this elementary postulatium.

But whilst, for good reasons, hesitation is shown to sanction direct in the case of our congeners this liberty to raid, no such hesitation appears in claiming it for the native, the white trader afterwards stepping in to indirectly derive the benefit, being doubtless content, failing his being able to raid himself, with raiding through the medium of some one else.

The axis of the controversy is thus at once displaced. No longer is the right to trade absolutely set up against the right to own property but what is rather set up is the right of the native *in genere* to take no notice of the legally established regime organising the property or of the consequences which the Law attached to the regime, wherever the lawful owner has not hatched, or practically hatched his property as a hen hatches her egg, to use a comparison of one of our old Jurists.

Let me immediately dispel an equivoque. Not only is it a question here of respecting according to their tenor and mode, native existing occupations and exploitations, by making allowances even for the natives, for extensions corresponding to the development of their population, as did the Laws of the different countries owning possession on the Congo. It is a matter of considering the bulk of the territories of States owning possessions in the Conventional Basin, left as it were to the mercy of any form of devastating undertakings of the negros, realising as they please with that improvidence characteristic with them the sterilisation of the soil, whether involving regions where the native has never penetrated or which he has

always left to lie fallow, or referring to exploitations the possibility of which he even ignored.

By a singular inversion of positions, the whites are no longer the people to turn the soil to account and organise the land system, subject to keeping due reserves for the natives, but the latter are now looked upon as permitted, by international law, to recklessly hack about the whole State territory subject to penning the white men within establishments where the soil can be reduced into a state of individual occupation. And this, be it noted, in virgin regions where, as is generally acknowledged, landed proprietorship did not formerly exist! At any rate, with the view of upholding protests from certain traders who seek to do business in a country where the land system is organised by a regular sovereignty in the same way as if they were still in ownerless land, the so-called natives' rights ought not to be exaggerated to such an extent as to create for the legal landlords an impossible position. No rights ought to be acknowledged to the natives which even the regular land-owners do not possess, as for instance the right to raid without complying with the conditions of a reproductive exploitation such as the obligation to replant, in case of forests. As a matter of fact, a system of this kind leads straight to absurdity. I will proceed to prove that it is entirely foreign to the Berlin Act. The English Diplomatic Notes are in my opinion, mistaken in two respects : because they disregard both the purport of the undertakings assumed by the Powers owning possessions as regards the native economic system, and the character of the guarantees attached to the engagements. The engagements which the Powers took in reference to the private

economic order of the natives solely arise out of Article 6 of the Berlin Act, and in nowise consist in being bound to recognise in their favour rights which rank over, or are even identical with, those of the whites. They consist in a general engagement to superintend the improvement of their material conditions of existence. This engagement is altogether distinct in its tenor from the obligations of an economic character taken in regard to the subjects of the civilised countries.

As to invoking Article 35 of the Berlin Act, it is impossible to attempt to do so for the reason that the text of this article itself absolutely forbids it. I believe that in a separate paper I fully disclosed in what circumstances the Berlin Conference dealt with the question of acquired rights, by laying stress on the exact sense of these words and remarking that under any circumstances they cannot be construed as assigning to the native generally, the entire territory, with *carte blanche* or if preferred, *carte noire*. We would request those who would like to obtain a clear idea in this matter to peruse the few pages which we devoted in *New Africa* to elucidating this point of interpretation so frequently misunderstood for want of referring to the original sources (1). Natives can by all means dispose as they deem fit of what rightfully belongs to them. And needless to say that the form of acquisition by them of separate property is not, nor can it be, the same in countries where the land is ownerless as in countries where the soil is legally apportioned. Whilst in purely vacant lands, the native, as in fact any other person, is at liberty to

(1) *New Africa*, p. 84. (English translation.)

appropriate as his own all fruits whatsoever by merely gathering them, he cannot on the other hand take on apportioned soil the fruits for himself by robbing them from the legal owner.

In like manner, the quantity of materials that he can dispose of may undergo the influence of this new situation and for the time being unfavourably act upon certain forms of economic transactions. But the impulse given in a country to increasing wealth by appropriating the land is likely to create an incomparably better situation as far as barter goods are concerned. In this way, necessary economic transformations may bring about passing situations unfavourable to some, though remaining a normal evolution, a condition of progress and a source of boon for the future.

As to endeavouring to create for any given State, a party to the open Convention which constitutes the Berlin Act, a special situation differing from others, the undertaking is juridically impossible in view of Art. 37 of that diplomatic instrument, which fixes absolutely and above all contingency, the purport of the adhesion in the following terms : « It entails *ipso facto* acceptance of all the obligations and admission to all the advantages stipulated in the present General Act. »

I am greatly mistaken or the system suggested by the Foreign Office is of such a nature as to satisfy nobody. It cannot give satisfaction to the promoters of a regular constitution of property in the Conventional Basin because it tends to impose upon landlords conditions amounting practically to an annihilation of their right. Nor will it give satisfaction to *bona fide* traders, creating for them as it does an ever precarious situation, without stability for

the future, at the mercy of all the pushing back which the multiplication and extension of individual occupations may entail at every moment.

Instead of wasting time in forging systems which so badly resist the fire of criticism, how simple and reasonable would it be to acknowledge once for all that in the course of colonising evolution, new countries are destined to normally pass from the age of vacant lands to which the gathering corresponds, to the age of the apportioned soil consequent upon which is the reproductive and truly cultural working of the lands; that the Berlin Act never intended to disregard this natural law of progress; that commercial freedom is capable of existing in a country where the apportionment of lands is legally organised and developed as well as in a country where the lands are left in a purely vacant state; that the form which is taken by trade, the basis of the latter's application, its sphere of gravitation, if your like, naturally sustain the repercussion consequent upon these different stages of colonial life, commerce inevitably and exclusively assuming in one stage the form of barter, and in the other, tending to become what trade is in States whose economic development is more advanced.

It is quite true that certain traders may have to suffer from this inevitable evolution. But if this should be any cause of clashing of interests and afford means for proper arrangements, there can, in reality, be no question of injured right owing to the fact that the situation arises on the one hand, out of a legitimate economic evolution, and on the other, out of sovereign acts which the public power is entitled to do in the also legitimate exercise of its

authority. The utmost one can conceive with regard to establishments founded on the spot prior to the issuance of the Decrees affecting the apportionment of the lands, would be to fix a compensation, not in respect of any tort which by its decrees of apportionment the State should be alleged to have committed, and which would give cause for either a re-instatement into the premises, or legal damages, but in respect of a situation in fact which there might be occasion to equitably take into account, so far as the creator of such establishments may, under certain conditions, be looked upon as *negotiorum gestor*. It is in this instance only, and from this special point of view that in my opinion a question of equity, not of law proper, as affecting the past, appears capable of being raised.

As to submitting to an Arbitration Court the question of deciding whether a State has carried out the undertaking, assumed under the Berlin Act, to see to the improvement of the material condition of the natives, the non-admissibility of such a procedure stands to reason, provided the two following remarks are kept in view.

I. In itself the undertaking is clearly not one of those in which the parties to the Berlin Act intended to reciprocally grant one another perfect rights, as if they were entitled to exact the accomplishment or control the operation thereof.

II. The selection of means being in any case reserved to the various territorial authorities, each remaining, in this connection, in the hand of its counsel, an arbitration jurisdiction cannot be called upon to determine them.

By means of these simple remarks, it is easy to perceive on what slippery ground the English Government are

placing themselves by proposing to the Powers a reference to the Arbitration Court at The Hague.

I will not dwell on this other consideration that whilst Great Britain was requesting from the Powers a reference to the Arbitration Court, on the subject of the above question, she herself declined the course of arbitration offered by the Congo State in respect to one of those differences for which arbitration is usual between nations, *id est* construction of territorial delimitation treaties. But after all, it is not perhaps so much a question of making a choice selection amongst arbitration cases, of those that may be suitable, as an emphatic assertion of the truth that The Hague Court must remain « a Free Court in the midst of independent Nations. » No dissent is possible on this point. It is obvious that any direct or indirect attempt to drag States before the bench of the Court would not only be in absolute opposition with the conception of the Institution but likely to seriously comprise the latter's future.

I would add that in regard to the Congo Free State which was not enabled to adhere to the Convention of The Hague, owing to its character of a closed Convention—this character having been imposed on the other Powers principally by Great Britain—such an attempt would constitute a regular violation of Article 12 of the Berlin Act organising a special and thoroughly characterised peaceful procedure.

It is necessary in my opinion to consider by the light of the foregoing statement, on the one hand the legal value of the grievance on economic grounds set up against the Congo State, and on the other the admissibility of the procedure suggested against the State in the matter.

3.—*Grievance on humanitarian grounds.*

The economic question was mixed up with a question of humanity upon which I must now say a few words.

Relying upon facts which in some instances proved to be absolutely false, in others exaggerated or altered, in others again true and extremely regrettable—most unfair though it be to hold the public authorities responsible—a pretty strong agitation has engrossed that section of the British public which claims in favour of Great Britain the honour to march at the head in defending and developing sentiments of humanity, the endowment common to all civilised nations. We look upon the feelings expressed in this connection by many disinterested minds, as sincere in themselves. The fact of strengthening complaints on economic grounds by protests on humanitarian grounds cannot surely appear to any body as a lucky hit. But the aim which the champions of the humanitarian idea have in view is in my estimation so grand and so noble that I will not dwell upon that circumstance to draw from it consequences which many other observing minds have felt justified in inferring.

Nor do I intend being too severe upon missionaries who, anxious as they are to win the sympathies of the world with the condition of the people they evangelise, depict in bright colours the misery of the latter. If charity did not so deeply move the inward fibres of our nature, it would be less fruitful. But the margin left to appeals made to human pity does warrant their being transformed into indictments against those who do out there all they

possibly can to strive against savageness and accompanying horrors, the more especially as the testimony of other pioneers of civilisation and evangelisation, larger in number and no less authoritative, flatly denies such inculpations. If the accusers of the State in this respect will be good enough to cursorily peruse the twenty paragraphs of the chapter devoted by me in *New Africa* (1) to « The Government as a civiliser, » I will ask them to say candidly whether it is possible to come and talk about moral degeneration. Nor can surely economic degeneration be spoken of, in my mind, in face of the numerous and peremptory facts consigned by me in the chapter relating to the material development of the State. Is it supposed that by formulating certain incriminations, where odium wrestles with unlikelihood, and on which the English Courts have recently had the opportunity to fully and finally do justice, any other impression can be produced on sensible and unbiased minds than the following : They prefer striking hard than striking home? And by pretending to check assaults, is it not showing oneself excessive to represent as merciless torturers, so many Belgian citizens, and in the first row the members of our army who at the peril of their lives go out yonder to perform one of the most difficult tasks? We are aware that the small and weak have no right to show themselves very susceptible but nevertheless, like the great, they care about their good repute, and the patrimony of honour they hold is all the dearer to them that it protects the more in the respect of all, the dignity of their life. (*Prolonged cheers.*)

(1) *New Africa*, p. 349. (English translation.)

The British Government considered that certain accusations to which I have referred should be brought before the tribunal of the States, parties to the Berlin Act, though at the same time they say « they do not know precisely to what extent these accusations may be true, » and concluded by expressing the opinion that it is incumbent upon the Powers, parties to the Berlin Act, to confer together with the view of « securing if need be due observance of the provisions contained in the Act. » Then, after declining—in circumstances which appear regrettable—to communicate to the Congo State the British Consular reports relied upon by the Government in connection with the accusations, they proceed to a further Consular investigation *ad hoc* in the Free State. I will say nothing about all this mode of procedure which will be acknowledged as being somewhat strange in point of international relations, but will at once take up the law and facts.

First as to the law.

All those who are at all *au courant* with international treaties do not ignore that the often varied provisions contained in such treaties are far from all being of the same character and subjected to the same penalties. It is not an uncommon thing for the Powers to manifest for instance their concurrent will and to undertake to achieve a certain result, each on its own behalf and in the respective territories, without wishing on that account to grant to the others any legal claims in connection therewith and without admitting any principle of interference of third parties in the matter. And it frequently happens too, that the Powers testify their agreement on a certain object, distinctly reserving the right to adopt the means and clearly

stating that in this respect they are to retain the necessary liberty of action. The importance of engagements concerted in this manner is not to be disregarded—like partisans of the whole or none do—nor can their tutelar and beneficial qualities be disputed. But on the other hand, it is advisable to avoid giving them a character which they do not possess for it would be exhausting their spring and relinquishing a real good on the chance of a better.

To its honour, the Berlin Conference gave the closest attention to the condition, not only material but moral, of the natives and consigned in Articles 6 and 9 of the General Act undertakings showing this solicitude directed first towards struggling against those two scourges, namely slavery and trade in slaves, then towards the general improvement of the natives' lot. From this, however, must not be concluded that the Conference instituted a high International control and far less a Grand Council of Nations before which the various States could be called up to account for the manner of performing their undertakings. Those who attended the African Conferences held at Berlin and Brussels cannot fail recollecting how extremely careful the States were in asserting in all matters, their determination not to allow any entanglements of Sovereignities on their respective territories, particularly in regard to the native populations who after all are their own subjects. It is sufficient to be present at the drawing of any ordinary diplomatic instrument in order to see that such like preoccupations always attend and frequently predominate over the framing of International stipulations. And I do not expect that anybody will deny the statement that British diplomatists are not generally the last to

reserve, with extreme ability—*e. g.* by means of a final declaration more or less harmonising with the text of the treaties—the liberty of action of their Government.

I certainly consider as sacred any duty, even were it not enforceable before the Courts of Law, especially when it is assumed towards the weak ; but as reference is made to a positive violation of a Treaty, it would not, I think, be irrelevant to begin by fixing the exact tenor of the International agreement as carrying out the mutual wishes of the contracting parties. At this moment it is not a matter of settling a question of sentiment upon which every one can come to an understanding, but we have to precise the meaning of a Diplomatic instrument and also the purport of an international undertaking in its relations with the control alleged to be exercisable over it in order to secure what is termed « Its due observance. »

Most certainly if there is an institution likely to exercise an ill effect on the lot of the natives, it is slavery so far as it means negation of human personality. For this reason, the Powers accepted the undertaking to concur in its abolition. But Baron Lambermont, in his report to the Conference, immediately took care to precise in the following terms the purport of the provisions agreed upon in the above connection : « Stages of circumspection and transition must indispensably be gone through. Sufficient will be to mark the purpose : the local Powers will find the means and adapt them to circumstances of time and place. » What is this saying if not that in these questions of more delicate and more difficult of solution than many people imagine, the Powers reserve to themselves, each upon its own territory, the right to determine the mode of

acting and to adapt this means according to the knowledge—which they alone can get complete—of the surrounding wherein their action will be exercised, and do not allow any foreign intervention to impose such and such mode or adaption.

Another institution which has still more pernicious effects on the condition of the natives is unquestionably the slave trade. And on reading the Berlin Act and its commentaries, it will appear that the undertakings accepted in that respect are by far more extensive than the engagements concerning slavery. When, however, you consult the general Act of the Brussels Conference and compare the wording proposed for Article 3 thereof with the form which was finally adopted, the purport of the undertakings actually assumed and of the limitations affecting them clearly appears. The substitution of the word *declarations* for the term *engagements* in dealing with the provisions previously adopted by the Powers, was effected for the purpose of « more adequately » representing the meaning of the text precisely of Article 6 of the Berlin Act, the starting point of the present English claims. Another no less remarkable fact is that it was the British Government who proposed, by way of extenuating amendment, to add the words : *gradually, as circumstances permit*. The insertion of the words : *whenever they consider it possible* was suggested by France with the following commentary : « It does not appear possible to bind oneself by an engagement which in certain cases might result in forcing on a Power the co-operation of a neighbouring Power, when the former party had not asked for such co-operation, and might have reasons for dreading

it. » If we add that the German, British, French, Italian and Portuguese Governments declared that they all made reservations as to be expenses the article might occasion, « not being empowered to pledge their Governments' finances, » we shall have a cursory but correct view of the conditions under which Article 3 of the Brussels Act was adopted.

If it be averred that the Powers intended to safeguard to that extent their discretionary power and also their liberty of action, and to precise in this manner the sense of undertakings free from all foreign control in regard to the two worst scourges of the black race, who will contend that it could be otherwise respecting measures whose character is differently appreciable and appreciated in its relations with the improvement of the negroes? It is not sufficient for a State to say : « With us, military service is voluntary and organised in a certain manner ; with us, no one is compelled to work even for the purpose of contributing his share towards the expenses of Government ; with us, natives can ravage recklessly all that is not individually occupied, » to enable such rules to be deemed implied in the respect of undertakings assumed by all in reference of the condition of the natives, and to cause different procedure to appear as a violation of such engagements. Every body does not consider that the obligation to work which is imposed upon the negroes, by way of tax, as being contrary to their improvement. Every body does not look upon enforced military service as a form of slavery. And under no circumstances is any one entitled to impose upon another his way of thinking in the matter.

It will now be easy to grasp in what direction manifestly inconsistent with the tenor and sanction of the undertakings accepted in Berlin, the English suggestion would tend to lead the Powers parties to that Act, and to what extent the British interpretation of the Berlin Act would displace the axis of territorial sovereignties such as they have been really understood. The English note requests the Powers to consider whether they are not bound to make such representations as may secure the « due observance » of the provisions contained in the Act. But the first question to be asked is whether it is possible to consider that the engagements jointly undertaken to the intent in question can form the subject of legal claims as between one State and another or be subject to mutual control. For after all—and this cannot be concealed—if the British interpretation were admitted it would be opening the door to all kinds of recriminations between Governments in connection with their colonial system; it would be opening the door to most undue interferences under multifarious pretences.

With all due reserves as to the question of law which I believe I have now demonstrated, a State considering itself as invested with a special humanitarian trust, can in truth be understood to show this conviction in the form of amicable representations to another State upon any specified point. But it would seem that there should anyhow be certain conditions of which the three following immediately occur to the mind :—

- I. An absolute disinterestedness excluding all other action which should not be prompted by pure humanity.
- II. A perfect correctness in the mode of proceeding in

regard to the friendly nation, so as to previously avoid all suspicion of an authoritative interference.

III. A personal attitude such as to give no cause for similar reproach in this respect.

Now as is well known, it is by no means easy, especially in colonial matters, to avoid exposure to criticism.

Inasmuch as the above conditions cannot be easily fulfilled, we are inclined to believe along with many practical men, that, if needful, the best means to dispose of certain acts which are clearly ascertained to be improper, is to give them publicity. For in international matters, no positive institution of intercolonial control exists. The future reserves perhaps the formation of such an organisation, the working of which amidst the sovereignty of States will, I fancy, always prove most difficult. In the meantime, everybody must endeavour to do his duty at home by inspiring oneself by the doings of others and selecting therefrom what may appear worth taking.

From this point of view, I do not withhold my admiration for English colonisation which I have in fact long since expressed. And yet its promoters have not been guiltless, and at times have dearly paid for their faults. No one will contend even in England, that in the British Colonies the treatment of natives has always been above reproach; the disappearance of the autochtone races in so many countries where British domination has been developed would hardly warrant this optimism. Even nowadays, is the treatment of natives completely irreproachable everywhere and would Mr. Consul Casement, who is good enough to devote all his attention to the Congo, come home empty-handed, were he to make a thorough enquiry

into the mysteries of British Colonisation? I am merely putting this query in all good faith leaving its solution to others and I shall not enter into the line of recriminations which I purpose to avoid. As, however, His Britannic Majesty's Consul at Boma has specially limited his investigating zeal to the Belgian Congo, I should not be doing right if I failed to draw attention to his report and to meet the questions of fact consigned therein.

4.—*The Casement Report.*

It does not appear questionable that the circumstances attending the preparation of Mr. Casement's report and the mission received by him from his Government for the purpose, in circumstances which are well known, have rendered his task a particularly delicate one; and I have no doubt that he personally would have preferred operating under different conditions to those which a juncture of circumstances brought about. As to the materials of which this document is made up, the following observations occur to every impartial mind:—

I. The investigation was one-sided and in order to form a proper opinion, it will be necessary to wait the counterpart to be furnished by the Congo Free State (1).

(1) The Decree instituting the enquiry has been published by the *Bulletin Officiel de l'Etat Indépendant du Congo*. It reads as follows:—

LEOPOLD II., King of the Belgians,
Sovereign of the Congo Free State,
To all present and to come, Greeting:—

Whereas it is alleged that in certain portions of the territory, acts of ill-

Even now in respect to some important points, more especially to what may be termed one of the cardinal points of the enquiry conducted by the British Consulate, the State has clearly detected quite a singular mistake.

II. The investigation, limited as it was to a few selected regions, was hurried through in a somewhat feverish manner. The reporting Officer himself does not hesitate to acknowledge pretty frequently that time was lacking to enable him either to personally verify the accuracy of certain facts or to check the truth of the evidence heard by him.

III. As regards more especially this evidence, the reporting Officer has not sufficiently taken into account what may be called the native mind, so different from our

treatment have been committed in regard to the natives, either by private persons or by agents of the State;

Whereas it is a matter of importance that a full and impartial enquiry be made into the facts reported;

By and with the advice of Our Secretary of State,

We have decreed and do decree :—

ART. I.—A special Commission is hereby instituted, to consist of three Members, for the purpose of conducting the enquiry aforesaid, in accordance with the instructions of Our Secretary of State.

ART. II.—The following persons are hereby appointed to act on the Commission :—

1. Mr. Edm. Janssens, Advocate-general to the *Cour de cassation* of Belgium, President;

2. Baron Nisco, President *ad interim* of the Court of Appeal at Boma;

3. Dr. Edm. de Schumacher, Councillor of State and Chief of the department of justice of the canton of Lucerne.

The Secretary to the Commission shall be appointed by Our Secretary of State.

ART. III.—The Members of the Commission, whether acting jointly or severally, are hereby granted the powers attributed by law to Officers of the Public Prosecutor's Department, for the purpose of taking all such evidence as may be conducive to the manifestation of the truth; recording the depositions and, if occasion requires, referring to the Courts any misdemeanours revealed by the enquiry. The Commission shall take such lawful measures as they deem necessary to secure the testimonies being given in all liberty and report to the

own, as all men of experience are aware, and which is not prone to regard from the same standpoint as ourselves the duplicity in testimony provided it is only attracted by some interest, however passing it may be. It is thus that Mr. Casement has frequently taken for Gospel false declarations which were afterwards contradicted by declarants as audaciously as they had made them.

IV. In reference to facts ascertained *de visu* by the Consul, they are far from always having in reality the significance caused by the first impression. This is the case, for instance, with the depopulation of certain regions, which however the reporting Officer does not hesitate to put down chiefly to that terrible and mysterious disease called the sleeping sickness, but which here and there he also interprets in a manner unfavourable for the State,

Courts any act or attempt of subornation of a witness, or any outrage upon the person or property of witnesses by persons against whom they may have deposed. The Commission may call for the production of all such administrative or judicial documents relating to the subject-matter of their mission as they consider useful for their investigations.

ART. IV. — In case any one of the Members should be unable to act, the two other commissioners shall be competent to proceed with the enquiry.

ART. V. — The Commission shall furnish Our Secretary of State with a report upon their operations and the results of their labours, pointing out, if so deemed fit, any desirable improvements and, in case the enquiry should have proved abuses, they shall frame suggestions as to the best means of putting them down, with a view to the sound government of the territories and of the wellbeing of their inhabitants.

ART. VI. — Our Secretary of State is entrusted with the execution of the present Decree.

Given at Brussels, on the 23rd July 1904.

LEOPOLD.

By the King-Sovereign :—

In the Name of the Secretary of State :—

The Secretaries General :—

Chevalier DE CUVELIER,
H. DROGMANS,
LIEBRECHTS.

without taking into consideration certain highly striking factors which furnish a different and adequate explanation, as the last Note from the Free State clearly shows.

V. In connection with the acts recorded with a marked disfavour, several concern points of colonial method upon which stricture can no doubt be passed but which notwithstanding remain free questions, and on that account do not supply pertinent evidence in the matter.

VI. As far as reprehensible acts are concerned—even assuming them proved on both sides, which remains to be established—most of the facts reported emanate from private persons, individuals or companies, whose acts are repressible and repressed in fact, as shown by penal statistics, but who are in nowise connected with the State service.

VII. In very limited cases of outrages of which State officials are alleged to have been guilty—even supposing them established on both sides—there appears to be nothing in them beyond offences connected with administrative action, such as occur a little everywhere in the various colonial possessions, and which can be put down much more to the particularly depressing conditions, physical and moral, of the African life and to the exceptionally trying surrounding within which power is called upon to sway than to any other cause.

If arising out of administrative action, these offences are repressed as such in a disciplinary manner and, if occasion requires, penally as well, the moment they come to the knowledge of the authorities, and no grounded cause of responsibility can lie against the Administration on that account.

Reports of these offences together with official inspection may, on the Congo like elsewhere, place the head authorities in the way of exercising closer watch in a particular direction over a particular division of the staff and suggest either improvements to be adopted in recruiting officials or alterations and reforms to be introduced into the administrative system. But there is a vast difference between acknowledging the advisability of certain re-organisations and condemning an administration wholesale.

VIII. This is all the less admissible in the present case as if some fact is altered or made to appear as if it were the general rule, grounds are given for forming opinions unfavourable to the Administration and which are peremptorily contradicted by counter-evidence much ampler and quite as reliable as Mr. Casement's.

IX. Lastly, it should never be forgotten that there are two ways of contravening the objective truth : first, by affirming things which are false, secondly by omitting things which are true, *suggestio falsi, suppressio veri*. Without reproaching to the British Consul with voluntarily saying a thing which is not true, we must anyhow acknowledge that for the purpose of forming a sound opinion as to the condition of the natives of the Congo, it is only right to call to mind on the one hand, the position in which they were at the time when the State was created, and on the other, the immense progress achieved in so many directions which the report says little or nothing about. To point out everything that may be defective and to leave aside the good realised, is never, in any matter, the means of arriving at a fair balance.

By studying the Casement report, keeping in mind the

common-sense remarks which we have just put forward and by taking the trouble to sort out the facts from these different standpoints, it does not take long to notice that if the general scaffolding of this document is built up—not without some experience in making a show,—so as to produce an impression corresponding to the feeling current in a portion of the British public, the conclusion to be drawn, namely a sort of moral downfall of the Congolese Administration, would exceed the premises all in all.

And, in this respect, may I be allowed to unmask a favourite tactic of the irreducible adversaries of this Administration?

If the State is overtaken by some atrocious explosion of savageness by the natives? The great criminals! will it be exclaimed, they allow everything to be done and provide against nothing.

If the State issues stringent instructions and enacts more severe laws? The great criminals! They want to deceive us and will never apply these measures!

If the State enforces them rigourously? The great criminals! Just see the abundance of crimes and outrages committed under that Administration!

How earnestly speaking can the State be expected to act, if any and every position it takes up is unfavourably imputed beforehand? All this is not fair, nor is it fair to put in the scales a few facts recorded, in circumstances which I have explained, by a British Consular officer rushing over the Upper Congo for two months as against thirty years of laborious and persevering efforts crowned on the whole with an unprecedented success to which

thousands of authoritative voices have, in all nations—including Great Britain—borne remarkable testimony. (*Cheers.*)

3.—*Conclusion.*

And now that in a form which I believe to be befitting and even respectful of the susceptibilities of all, I have said what I believe to be correct concerning the stir of opinion set on foot in England against the Belgian Congo in regard to the British interpretation of the Berlin Act, and to points of law and fact connected with this construction, I should like, in order to give my review a practical conclusion, to indicate the reasons I have for looking forward to a satisfactory settlement of the Anglo-Congolese dispute.

Without disregarding what we may have to fear from a persistent English disposition, I think that we can in this matter rely upon the practical common sense of Englishmen, that marvellous common sense which prevents in our powerful neighbours across the Channel certain and perhaps too marked propensities of the mind and national character from producing their extreme consequences.

I will first remark that in the conclusions of their diplomatic notes, the British Government rather affirm than they interrogate. They submit their views to the Powers parties to the Berlin Act, accompanying them by certain suggestions which are far from assuming the character of propositions. British diplomacy is too experienced and too foreseeing to act otherwise on a ground the want of solidity of which could not completely escape their attention.

I will further remark that at the stage where things are at present, the British Government have no doubt been able to form an opinion as to the great reserve of the Powers in entertaining their suggestions. The Government will notice a fresh element of appreciation which did not exist originally and which will doubtless not be lost sight of by British diplomacy, the more so as on various occasions they have expressed their intention of only acting in this matter in concurrence with the other Powers.

On the other hand, recent facts, new also, international *ententes* which might have been thought difficult, seem to have proved that British contemporary statesmen can, when they like, produce considerable results in connection with the rapprochement of nations by means of direct pacific arrangements. And there is no reason why in these facts one should not anticipate some general direction of the British mind towards the objective settlement, by like means, of other less important and less complex differences pending with other States. For instance, what a deal of good could be expected from a principle of goodwill applied to the solution of territorial difficulties?

In regard to the grievance preferred on economic grounds, I would remark that it is far from having retained at the present time, especially on the grounds upon which the English notes have placed it, the weight which it may have offered originally, for as it is set at the present day the question is practically of a transitory character, and is daily decreasing in import. As a matter of fact and thanks to the enormous progress realised by the multiplication of exploitation centres, all lands, or nearly so, are at present reduced into that state of individual

occupation which is acknowledged as permanently doing away with the raid system.

Were this not completely so as yet, would the precarious and ever temporary character of establishments successively regressing under the pushing of individual occupations enable the efflorescence of such economic factors to be discounted? Can there be any difference of opinion on this point between straightforward men of business. In these circumstances, are we not warranted in wondering whether the stake of the contention does not amount to satisfactions of a somewhat platonic character?

And as to moving an arbitration procedure, is it not obvious that even were such procedure admissible, its *raison d'être* would decline and vanish at once and in the same measure? But I believe I have shown that decisive and peremptory reasons oppose its being entertained on the grounds relied upon by the English notes.

I will add further the following remark which appear topical : If the arbitration procedure were admitted and the English arguments upheld, an impossible matter in my opinion, this triumph would fatally remain rather theoretical than practical, inasmuch as the determination of the conditions under which the soil shall be deemed to be reduced into individual occupation and which conditions are bound to vary according to somewhat contingent circumstances, will always be a matter for each State to decide, unless it is intended that The Hague Court is to be continually at work in the Legislative, Administrative and Judicial Realms of Nations!

In conclusion, as to the last grievance specially of a moral character formulated against the Congo State Admi-

nistration, most of the people who set it up, certainly ignore the amount and importance of satisfactions actually given by the State to all founded complaints which have been made. That is why we notice that those who disregard these results are often reduced to speaking about practices which have long since ceased to exist.

The Congo Free State has never claimed to be infallible nor impeccable. Who could flatter himself to be so, especially in colonial affairs? If at times it has proceeded by groping the way, it does not obstinately persist in following a wrong course when a straight line is realisable. Its policy is essentially a policy « of methodical experimentation and practical adaptation. » Being unable to reform every thing at once, it is often compelled to seek partial and progressive reforms, but the highroad always remains broad and open to progress. Amongst the reforms which have already been accomplished precisely in connection with certain grievances persistently preferred, I would point out the abolition, long since effected, of the percentages granted on the collection of taxes, and the improvement of the system of prestations in kind. This improvement has been constantly proceeded with and has just lately been surrounded by extra guarantees.

The reorganisation of the army after taking into account both experience and various criticisms which proved to be founded, has been brought to a successful issue.

The Judicial Police and Law Court services have been normally completed and developed in such a manner as to satisfy all requirements. Successful measures have been taken concerning the appointment of the staff, more especially with the view of better initiating them to the

duties of their mission previous to setting them out; for this purpose a colonial school has been recently founded. Certain abuses reported in the action of various companies have been severely punished and amended regulations have been adopted with the view of preventing or, is needful, repressing them.

It is in this manner that whilst certain persons are puzzling themselves in denouncing inexistent practices or excesses which no longer exist, the State is pursuing its progressive course, always ready to avail itself of any *bona fide* strictures.

What cannot be asked of the Congo State, nor can it be reasonably expected from any other colonising Government, is the impossible, to afterwards blame it for having failed to realise this, or the immediate in respect of improvements which can only be the work of time, or the renunciation to self-government in matters of *libre pratique* in colonisation.

Nor would it seem that the State can any more be called upon to abandon the sovereign rights belonging to public authority on the pretence that they might give rise to misuse. And may I be allowed to recall in this connection the following words from Count de Montalembert, a great admirer of English institutions : « Of all nations England is the nation the least disposed to give up a right to the misuse that can be made of it (1). »

One word to close. It would be a great mistake to think that the present generation of our Diplomats and Statesmen has lost the care for our good traditions of yore

(1) *Un débat sur l'Inde au Parlement anglais*, p. 53.

particularly in the relations with Great Britain. But is it not important, that beyond our boundaries the economic activity displayed by Belgium and her children, under the initiative of their King should be appreciated a little more fairly? To ask us why we are aiming at progressing far away, does it not amount or nearly so to asking us why we want to live? In view of the situation in which our development over a small area and the conditions of modern life have placed us, can we be called upon to coil up and remain at a standstill?

The world revolves and aims at higher destinies. Great Britain of to day is by no means the Great Britain of three quarters of a century ago. How could it be expected that the present Belgium should in all respects remain what it was in 1830?

Then again, how are we to imagine that Great Britain has anything to gain by countenancing any form of discrediting of minor States which, on the Continent, are in close touch with her own coasts; or by rendering their existence more irksome? This is not, would it seem, the great tradition of English policy.

A systematic campaign against the work of the Belgians in Africa, combined with a prolonged effort to form a sort of coalition with the other Powers against it, would neither be fair nor clever: it would not be fair for the reasons which I have laid open; it would not be clever because... but indeed, so clear is this, that any explanation is unnecessary.

I will add that in my opinion England must not place too great a reliance on certain sharpish words alleged to occasionally come in, it is said from Belgium. If our

colonial domain were to be seriously threatened, the whole nation, with its patriotism, would gather round its princes, and it is not England, where there always prevails such an admirable national mind and such a deep attachment to her Sovereigns who could reproach us with our indefectible loyalism. (*Prolonged cheers.*)

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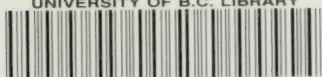
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